

NORTH CAROLINA STATE
**LONG TERM CARE
OMBUDSMAN PROGRAM**



2006 Annual Report

*Promoting quality of life
and quality of care
for long term care residents.*



North Carolina Department of Health and Human Services
Division of Aging and Adult Services

2101 Mail Service Center • Raleigh, North Carolina 27699-2101
Tel 919 733-3983 • Fax No. 919 733-0443

Michael F. Easley, Governor
Dempsey Benton, Secretary

Dennis W. Streets
Director

I am pleased to present the North Carolina Long Term Care Ombudsman Program's 2006 Annual Report for federal fiscal year October 1, 2005 through September 30, 2006.

This Annual Report highlights the many ways that local community advisory committee volunteers, Regional Ombudsmen and the Office of State Long Term Care Ombudsman have worked to protect residents' rights, empower families and educate consumers about long term care issues and options.

North Carolina General Statute §§ 143B-181.18(8) requires the Office of the State Long Term Care Ombudsman to prepare an annual report that reflects current complaint data along with any recommendations for addressing long term care issues identified. Information is also included about the Long Term Care Ombudsman Program's successful completion of public education events, community involvement efforts, elder abuse prevention activities and ongoing state level initiatives.

The North Carolina Long Term Care Ombudsman Program had a very busy and productive year in 2006. I invite you to contact me if you have questions or comments about our Annual Report.

Sincerely,

A handwritten signature in cursive script, reading "Sharon C. Wilder".

Sharon C. Wilder
State Long Term Care Ombudsman



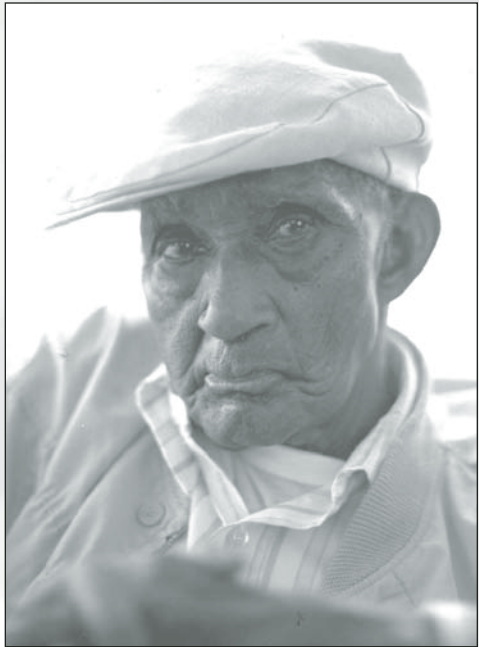


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2006—Year in Review

The Long Term Care Ombudsman Program enjoyed a year filled with successful initiatives and program growth. The State Long Term Care Ombudsman made a presentation on the Long Term Care Ombudsman Program to the N. C. Study Commission on Aging. The presentation concluded with information about the Program's need for an additional nineteen regional ombudsmen positions as part of an effort to reach the recommended national ratio of one regional ombudsman for every 2,000 long term care beds. The Study Commission on Aging included a recommendation in its Final Report that 10 new regional ombudsmen positions be funded to enhance the capacity of the Long Term Care Ombudsman Program to serve residents in long term care facilities. Many stakeholders actively advocated on behalf of this recommendation. We are very pleased to report that during the 2006 Short Session of the N.C. General Assembly, \$392,136 was appropriated to add 8 new regional ombudsmen positions to the Long Term Care Ombudsman Program.

The Ombudsman Program concluded a third successful year of work with *Strategic Alliances for Elders in Long Term Care*, the state level law enforcement initiative focused on the development of a collaborative

partnership with law enforcement agencies and courts of competent jurisdiction. In addition to regular quarterly meetings, the *Voiceless Victims* three-day curriculum was taught five times at both the eastern and western campuses of the N. C. Criminal Justice Academy. Approximately 60 law enforcement officers completed the course. Student course evaluations indicated that educational materials presented throughout the course were immediately put to use by investigators. The S.A.F.E. in LTC membership also determined that a second goal will be to develop a four-hour companion course for long term care providers that offers basic information and guidance about their role and responsibilities once a law enforcement officer has entered a long term care facility to investigate a report of criminal activity.

The *Resident Companion Visitation Program* finished a successful year of pilot programs with three nursing facilities and 23 trained volunteers. The volunteers attended a two-hour training session with State Ombudsman Program staff, completed an orientation session with the facility activity director and a tour of the facility prior to being assigned to a resident for one-on-one visits. Volunteers were asked to make a commitment for at least six months as a resident companion visitor. Hillside Nursing Center of Wake Forest, Sunnybrook Healthcare and Rehab Specialists in Raleigh, and Brian Center of Brevard collaborated with the Long Term Care Ombudsman Program on this initiative. Evaluations completed by both volunteers and residents revealed that volunteers felt the commitment was very rewarding and residents felt they had definitely benefited from having visitors, especially when shared interests were discovered that led to a new friendship. Several residents indicated an interest in continuing to participate in the program and believed it has enhanced their lives. Plans are underway to establish a train-the-trainer module and to expand the Volunteer Companion Program into long term care facilities in several other regions of the state.

The State Long Term Ombudsman Program collaborated with the Division's Family Caregiver Support Program on the development of a multi-modular training curriculum entitled *Cultural Competency*. The foundation module for this project debuted at the joint National Conference on Aging and the American Society on Aging in Anaheim, CA. The *Cultural Competency* curriculum was also presented by Division of Aging and Adult Services' partners during the 2006 State Conference on Aging. The Ombudsman Program Specialist's contribution to this curriculum was in the topic area of Cross Cultural Verbal and Non-Verbal Communication and How to Conduct Effective Outreach to Diverse Communities. The initial diversity training was designed to prepare regional ombudsmen to offer assistance to long term care facilities so that



staff would be more culturally aware of the needs of current and future residents, as well as to enhance the awareness of regional ombudsmen of cultural diversity in long term care facilities. This presentation was also used as a reference document by the National Association of State Units on Aging and has been requested for use as a model for other long term care ombudsman programs across the country.

The Ombudsman/Elder Rights Specialist in the State Office represented the Program on the *NC Coalition for Long Term Care Enhancement*. This Coalition's main goal is to support North Carolina nursing facilities that are interested in implementing culture change initiatives. The Coalition accomplishes this goal through provision of education about culture change implementation and small grant assistance. Program staff also supported the Coalition through activities that included work with the newsletter committee, preparation of news articles and quarterly newsletters for distribution, as well as ongoing participation with the grant committee that completed revisions for the culture change grant guidelines. Staff also participated in two trade shows sponsored by the North Carolina Health Care Facilities Association on behalf of the Coalition. In addition, the Ombudsman/Elder Rights Specialist represented the State Long Term Care Ombudsman Program by participation in an all-day educational conference for providers and consumers as part of the *Nursing Home Transition Grant*.

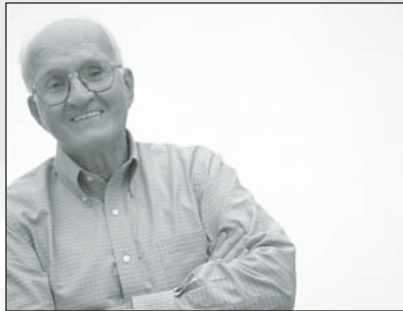
Ombudsmen from across the state worked with Friends of Residents in Long Term Care to plan the *2006 Quest for Quality in Long Term Care Awards Banquet* in May. Over 100 people, including family members, advocates, agency professionals, facility staff, and residents attended as Friends of Residents celebrated 18 years of service as a statewide nonprofit coalition dedicated to improving the quality in long term care. The Awards Banquet was established in 1996 as a way to recognize individuals and facilities who exemplify the values of quality care, quality of life and resident dignity in the service delivery of long term care facilities. There were six award categories: Outstanding Direct Care Worker, Best Practice in Nursing Homes, Best Practice in Adult Care Homes, the Sharon Wilder Advocacy Award, Outstanding Community Advisory Committee Award, and Legislative Advocate Award. The beaming smiles on the faces of the individuals recognized for their outstanding service to long term care residents were the grand finale of the evening.

Internally, the State Program staff invested a great deal of time in the development of a comprehensive software patch for installation in the Ombudsman Complaint Tracking System so that the state system would meet new federal Administration on Aging Ombudsman

Reporting System requirements. The software patch is a temporary solution until the State Office is able to implement a web-based application for the Ombudsman Complaint Tracking System. Also, a UNC Chapel Hill, School of Social Work intern worked with the State Ombudsman for six months. During her internship, the student developed a written checklist for regional ombudsmen to use when assisting residents confronting a transfer or discharge from their current facility and reformatted the Program's current Policies and Procedures into the Division's recently established format. The intern also assisted the Legal Services Developer in researching and designing a training program for pro bono assistance with Medicare Part D appeals. Approximately eighty (80) attorneys and the State Long Term Care Ombudsman completed this training to become part of a *Medicare Part D Pro Bono Network*.

*"Never Doubt
that a small group
of thoughtful,
committed citizens
can change the
world. It is
the only thing
that ever has."*

MARGARET MEAD



Community Collaboration Benefits All

Reaching out, working together and helping take care of each other is what "community" is all about. Never has that been carried out more powerfully than in Johnston County when Blenda Braswell, a caregiver assumed leadership for building a collaborative effort focused on establishing a community-based support group for caregivers who have loved ones diagnosed with Alzheimer's Disease and related dementia disorders. In the past, there had been two facility-based support groups, but neither of the groups offered respite care for the relatives with Alzheimer's or a related dementia. Many interested family members were unable to attend meetings because they had no one to take care of their loved one while they were away.

In early summer 2006, Ms. Braswell contacted several community agencies including the Alzheimer's Association-Eastern N. C. Chapter, Triangle J Council of Governments Regional Ombudsman Program and the Johnston County Council on Aging to discuss this concern. She had already worked with her church, The Smithfield First Baptist Church which offered a place for the meetings to be held. Staff with the Alzheimer's Association suggested that representatives from each of the agencies contacted gather for a meeting to develop a plan for a caregiver support group that would include respite care. The first meeting was held at the church in August 2006.

Since the major challenge identified was the provision of respite care for relatives during caregiver support meetings, the Regional Ombudsman contacted all of the area nursing home and assisted living administrators and asked if they would be interested in providing staff members for respite care once a month while caregivers attended a support group meeting. Five nursing home administrators and one assisted living administrator agreed to help out! They went a step further and offered to include meaningful activities as part of the respite care sessions so that the loved ones would have an opportunity to interact with others at the same time the caregivers were meeting. Each facility administrator also volunteered to bring light refreshments for everyone. The Alzheimer's Association provided facilitator training, which took place in October 2006. During November 2006, the first Community Support meeting was held. Regular meetings have continued to be held monthly for Johnston County caregivers since that time.

Long Term Care Ombudsman Program History

The federal Older Americans Act established the Long Term Care Ombudsman Program in 1978. Following the successful completion of pilot ombudsman programs in seven states, authorization for a national Long Term Care Ombudsman Program was enacted requiring that every state establish a Long Term Care Ombudsman Program. In subsequent years, further amendments to the Older Americans Act expanded the jurisdiction and scope of the Long Term Care Ombudsman Program to cover both nursing homes and adult care homes. The broader scope included the creation of a network of trained volunteers, an informal complaint resolution process and systems advocacy responsibilities related to problems impacting residents in long term care facilities.

In 1989, the North Carolina State Long Term Care Ombudsman Program was codified into state law through General Statute 143B-181.15-.25 which mirrors the federal mandates set forth in the Older Americans Act for the Program. The legislation includes the responsibilities of the Long Term Care Ombudsman Program administered through an Office of State Long Term Care Ombudsman as well as the functions of an Office of Regional Long Term Care Ombudsman Program. The North Carolina State Long Term Care

Ombudsman Program is located in the Department of Health and Human Services, Division of Aging and Adult Services. The Regional Long Term Care Ombudsman Programs are housed in the 17 Area Agencies on Aging across the state.

Long Term Care Ombudsman Program Purpose

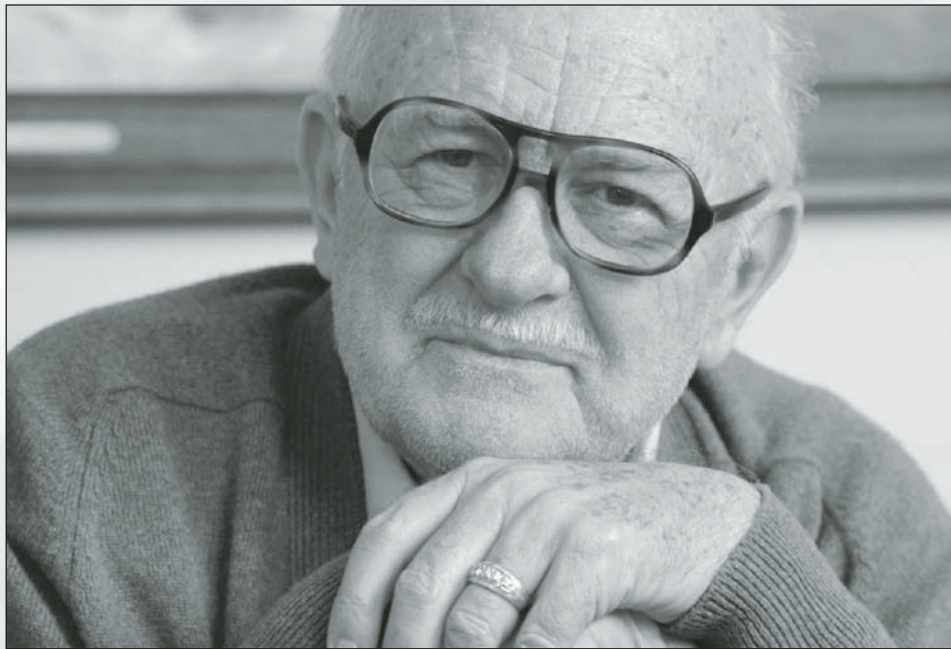
The North Carolina Long Term Care Ombudsman Program's mission is to protect residents' rights and improve the quality of care and life for residents in long term care facilities by providing access and advocacy services that assist residents in protecting their health, safety, welfare, and rights. The program provides information to citizens about the long term care system as well as assistance accessing services. The Long Term Care Ombudsman Program's mandated responsibilities are to:

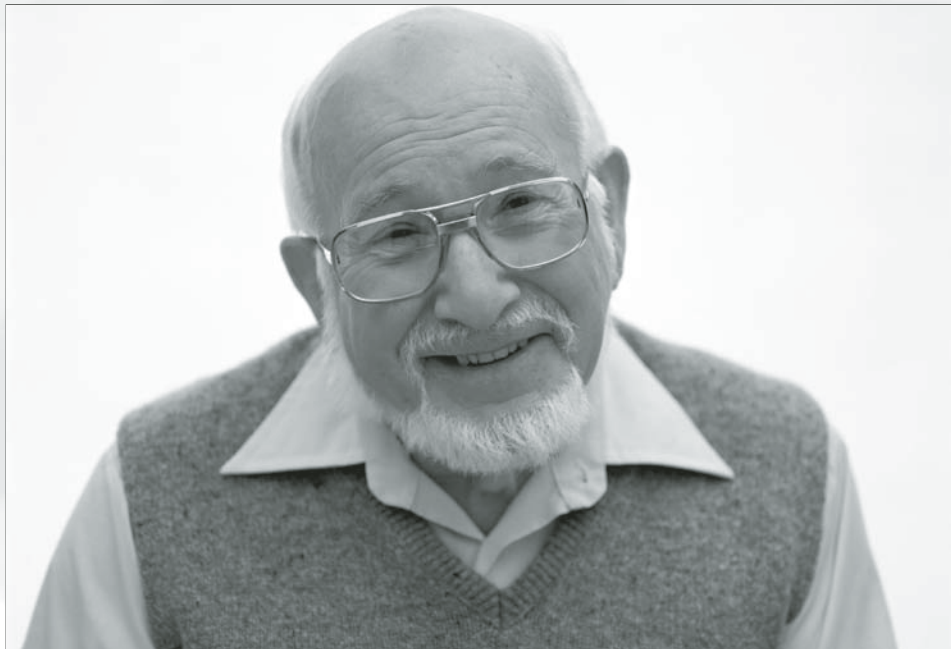
- Receive and attempt to resolve complaints made by or on behalf of residents in long term care facilities;
- Provide information to the general public on long term care issues;
- Promote community involvement with long term care residents and facilities;
- Work with long term care providers to resolve issues of common concern;
- Assist long term care providers with staff training (particularly on Residents' Rights);
- Train and provide technical assistance to community advisory committee volunteers appointed by county commissioners;
- Collect and report data regarding the number of complaints handled and other program activities;
- Carry out activities for community education and prevention of elder abuse, neglect, and exploitation; and
- Provide information to public agencies, legislators, and others on problems impacting the rights of residents as well as make recommendations for resolution of issues identified.

2006 Services Overview

October 1, 2005 – September 30, 2006 **State and Regional Long Term Care Ombudsman Program**

3,044	Complaints handled by the LTC Ombudsman Program
1,442	Complainants assisted by State and Regional LTC Ombudsmen
7,687	Resident visits made in adult care homes and nursing homes
459	Facility licensure surveys observed
108	Resident Council meetings attended
78	Family Council meetings attended
16,683	Individuals provided with technical assistance on LTC issues
5,443	Consultations provided to LTC providers
440	Training sessions provided for staff in LTC facilities
887	Community education sessions provided
3,157	Hours spent training community advisory committee members and new ombudsmen





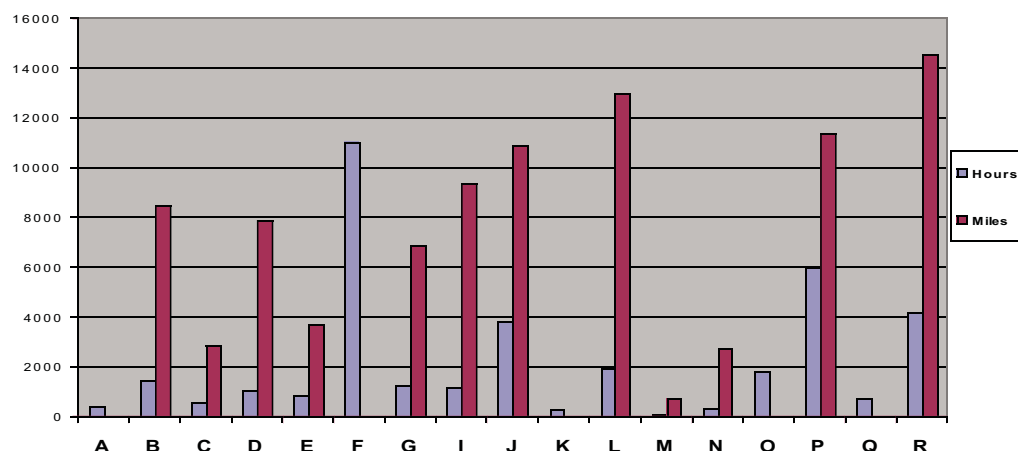
Program Organization

The State Long Term Care Ombudsman Program is part of the Elder Rights and Special Initiatives Section in the Division of Aging and Adult Services within the North Carolina Department of Health and Human Services. The State Long Term Care Ombudsman, along with an Ombudsman Program Specialist and an Ombudsman/Elder Rights Specialist manage day-to-day program administration that includes ensuring all newly hired regional ombudsmen complete the required state certification process and that the Program is in compliance with mandates in the Older Americans Act as amended and N. C. General Statutes.

The Regional Long Term Care Ombudsmen are housed in the 17 Area Agencies on Aging across the state. The Area Agencies on Aging are in regional planning councils known as Councils of Government which were created by the N.C. General Assembly in the early 1970's. As a part of the Area Agency on Aging, each Regional Long Term Care Ombudsman Program provides advocacy and direct services to long term care residents in multiple counties.

The community advisory committee volunteers were established through state legislation in the mid-70's. Local boards of county commissioners were authorized to appoint local citizens to serve as advocates for residents in long term care facilities. Each community advisory committee member appointed must complete 15 hours of initial training prior to assuming their official duties as mandated by state law (G.S. 131D-31 and G. S. 131E-128). The Regional Long Term Care Ombudsman Program ensures that each volunteer appointed completes the required training included in the State Long Term Care Ombudsman Program's Policies and Procedures to equip them to serve as 'grassroots advocates' in their respective communities. There are currently over 1,000 trained volunteers actively serving on adult care home, nursing home or joint community advisory committees in all 100 counties of the state. Regional Ombudsmen submit quarterly reports that include the number of volunteer hours logged by committee members. Volunteers are not required to report the number of miles they travel fulfilling their duties; however, many do voluntarily provide this information as part of their quarterly activity reports.

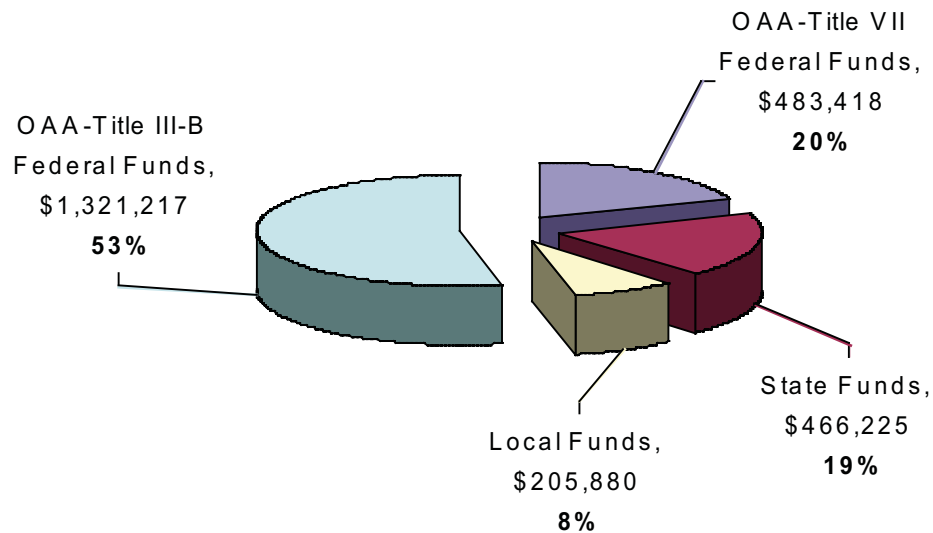
**CAC Volunteer Hours and Miles for 2006
by Region**





North Carolina Long Term Care Ombudsman Program Expenditures Funding Sources

October 2005 - September 2006



The Division of Aging and Adult Services administers the federal and state funding that supports the Long Term Care Ombudsman Program in North Carolina. Approximately 85% of all funds shown in this chart are allocated to the Area Agencies on Aging for operation of the 17 Regional Ombudsmen Programs.

State fund expenditures include \$147,950 to support the state level Long Term Care Ombudsman Program and provide matching funds for Title III and VII programs, and \$318,275 in state appropriations allocated to Area Agencies on Aging for Regional Ombudsman Programs.



Long Term Care Ombudsman Program Services

Technical Consultation to the General Public

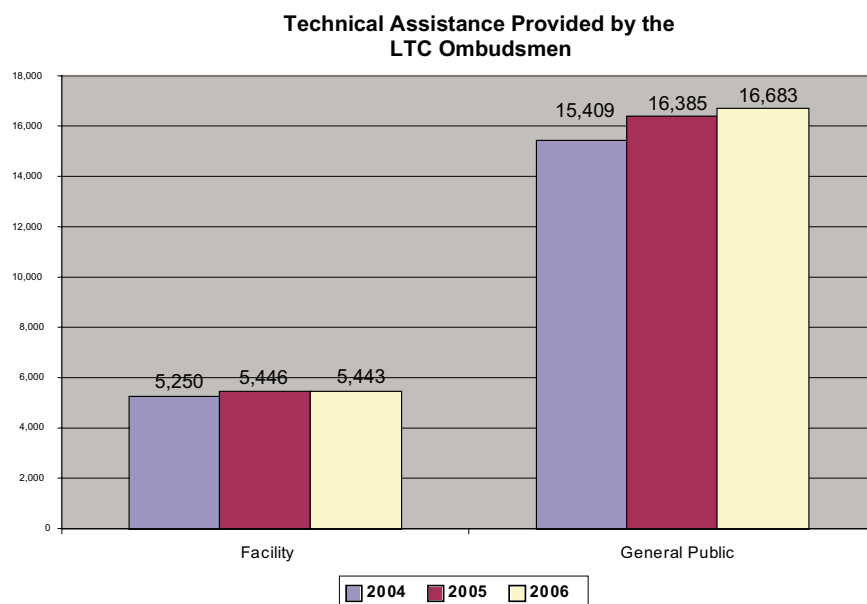
Ombudsmen provided technical assistance consultations to **16,683 individuals** during 2006. The information most frequently requested involved:

- Quality of care issues and Residents' Rights.
- Options for selection of a long term care facility.
- Protection of Residents' Rights during the Transfer/Discharge process.
- Long term care regulations and rules.

Technical Assistance to Nursing Homes and Adult Care Homes

The Program responded to **5,443 consultation requests** from long term care providers regarding resident care issues such as:

- Explanation of the role of the Long Term Care Ombudsman Program.
- Ensuring Residents' Rights are protected when addressing issues such as transfer /discharge from the facility, roommate conflicts, elopements, falls, and privacy.
- How to effectively deal with challenging resident behaviors.



Informal Complaint Resolution

The Long Term Care Ombudsman Program receives, investigates, and attempts to resolve complaints made by or on behalf of residents in long term care facilities. Confidentiality is the foundation of the complaint resolution process. Long Term Care Ombudsmen do not disclose the identity of any person registering complaints with the program nor the details of a complaint in any way that could identify the complainant unless written informed consent has been given for disclosure.

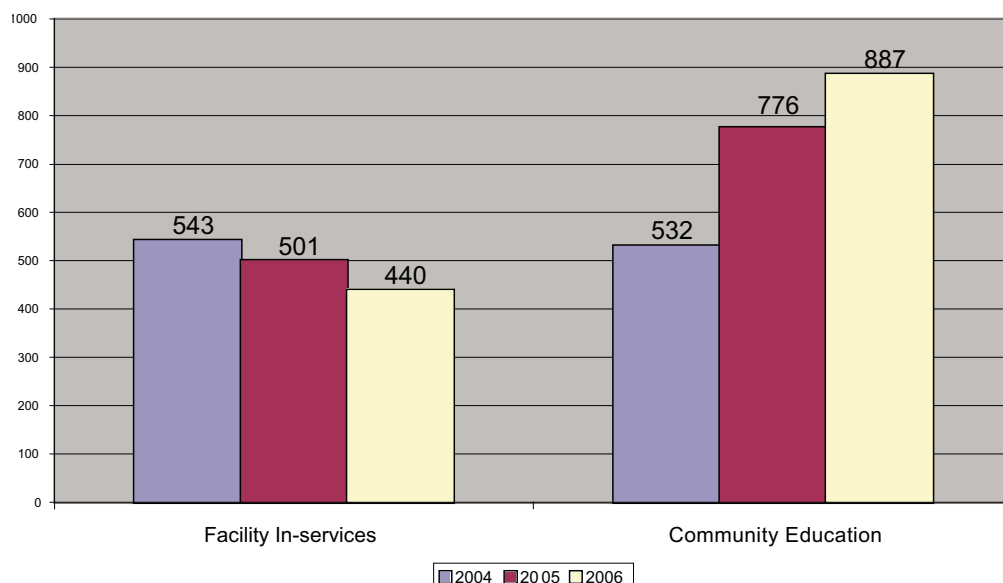
The Long Term Care Ombudsman Program responded to **3,044 complaints** from **1,442 individuals** in 2006. Sixty percent (60%) of those complaints were related to problems experienced in nursing homes and forty percent (40%) of complaints received involved problems in adult care homes.

In-Service Education for Facility Staff

The Long Term Care Ombudsman Program provided **440 training sessions** for long term care staff during 2006. Regional Ombudsman Programs across the state conducted elder abuse and Residents' Rights educational sessions for direct care staff. Regional Ombudsmen also provided training on topics such as:

- Role of the Long Term Care Ombudsman Program.
- Elder Abuse Identification and Prevention.
- Sensitivity to Sensory Losses Associated with Aging.

**Education and Training Provided by LTC Ombudsman Program
2006**



Community Education

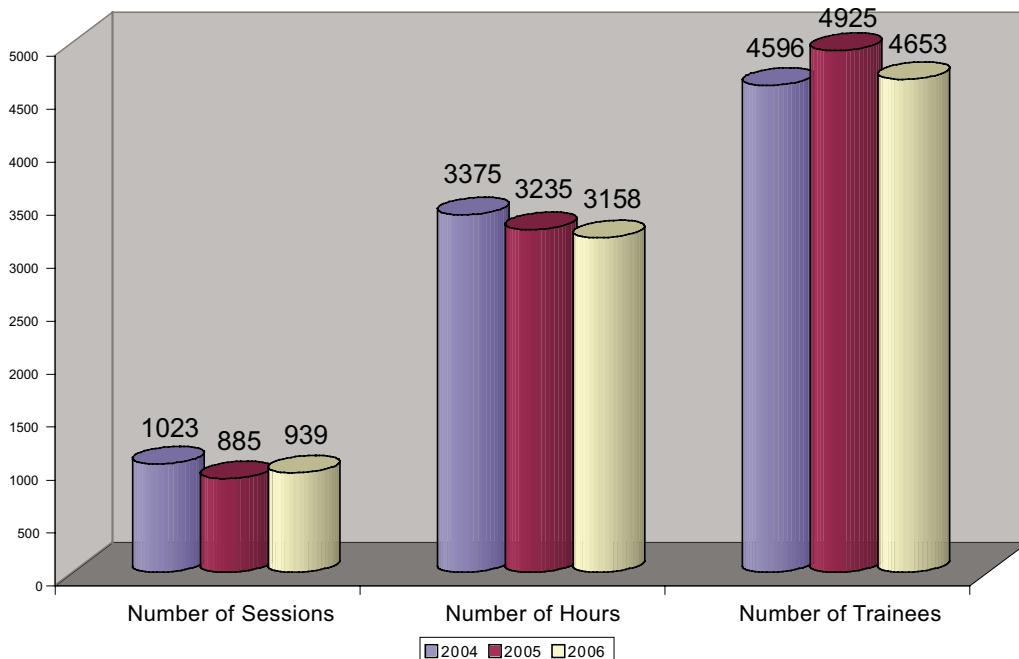
The Long Term Care Ombudsman Program provided **887 educational sessions** for a variety of community audiences during 2006. Workshop topics included:

- Understanding Residents' Rights.
- Ombudsman Program Roles and Services.
- Understanding the Transfer/Discharge Process.
- Recognizing and Reporting Elder Abuse.
- Understanding the Medicare Part D Prescription Program.

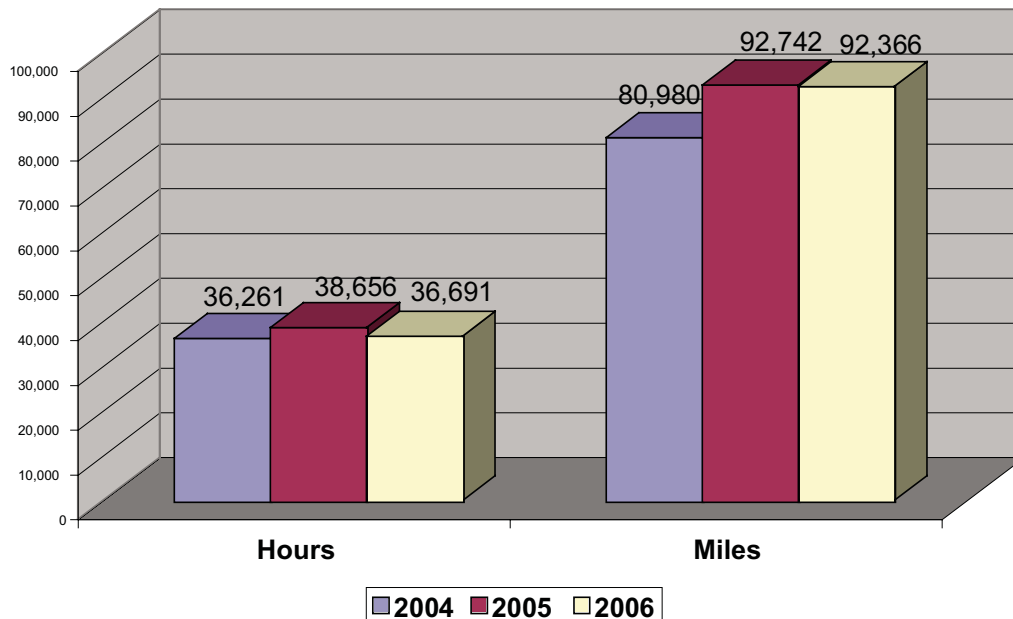
Volunteer Management

The Long Term Care Ombudsman Program provided **939 sessions** and **3,158 hours** of training for community advisory committee volunteers and new regional ombudsmen during 2006. Regional Ombudsmen spent approximately 30% of their time providing initial training for newly appointed community advisory committee members, coordinating ongoing committee training, and regularly providing technical assistance to the local advisory committees. Through these activities, the Ombudsman Program provided consistent support for 1,111 trained, active community advisory committee volunteers throughout 2006.

LTC Ombudsmen and Volunteer Training Sessions



Community Advisory Committee Volunteers with the LTC Ombudsman Program



Ombudsman Training and Certification

Four (4) new Regional Long Term Care Ombudsmen completed the State Long Term Care Ombudsman Program's requirements for certification during 2006. The Ombudsman Program certification process includes five days of intense training with staff in the Office of State Long Term Care Ombudsman, internships in nursing homes, adult care homes and family care homes, plus completion of a required reading list. The State Office also works cooperatively with the Regional Long Term Care Ombudsman Association to match each newly certified regional ombudsman with a mentor from a pool of more experienced regional ombudsmen. The mentor is available one-on-one for at least one year. Finally, all Regional Long Term Care Ombudsmen must attend 20 hours of quarterly in-service training each year which is provided by the Office of State Long Term Care Ombudsman.

Cooperation—Key to Success

Jimmy Parker, Smithfield Manor Family Council Chairman

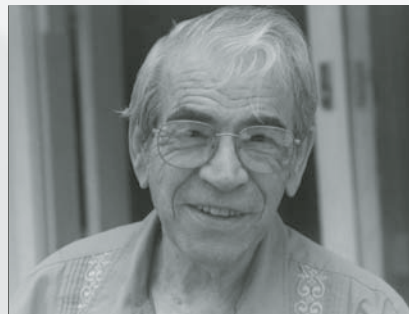
In early 2006, the management of Smithfield Manor Nursing Facility invited families to attend a meeting to discuss interest in the formation of a family council. The Regional Ombudsman was invited to facilitate the discussion along with the facility social workers. The families were very interested in the family council idea so a second meeting was held during which the Regional Ombudsman provided information about how to establish a family council. In just a few short weeks, the Smithfield Manor Family Council was up and running with elected officers, bylaws, a mission statement, long range goals, and a full agenda of ideas for improving the quality of life for the residents of Smithfield Manor.

With full cooperation from the administrator, director of nursing and social workers, the family council accomplished many projects, all of which improved residents' lives and provided reassurance to family members about resident well being. Staffing schedules which list the nurse and nurse aide assignments for each resident are now regularly posted at all nurses' stations. All staff members now wear large print name tags to ensure that the residents can read their names. A designated smoking area was established as the only place where smoking is allowed on the campus. Visitor parking spaces near the building were increased by establishing a designated staff parking area. Facility management installed a bulletin board for family council news and announcements. Each month a staff member is recognized as Employee of the Month. At the end of year, the family council plans to honor an Employee of the Year.

The largest project undertaken by the family council involved placing dry erase communication boards in every resident room at Smithfield Manor. Council members raised over \$1,500 by conducting a raffle for a handmade quilt. Smithfield Manor administrative staff graciously contributed the remainder of the funds so that a dry erase board was placed beside each of the 180 resident beds before Christmas.

The family council accomplished another important goal by working with facility management to establish a regular schedule of memorial services for deceased residents. The first memorial service was held in November 2006 with family members and staff lighting a candle in remembrance of loved ones. Services have continued to be held every six months and are always well attended by family, staff and friends.

Through dedication, hard work and great support from the nursing facility staff and administration, the Smithfield Manor Family Council has accomplished many goals in its short history. All new family members are welcomed with a bag of information and goodies for their resident.



Complaint Management Summary—2006

The North Carolina Long Term Care Ombudsman Program is mandated to receive and attempt to resolve complaints made on behalf of or by long term care residents using informal grievance resolution services. Ombudsmen initially respond to complaints by visiting with the resident in order to confirm that the resident has complaints and that the resident wants assistance in addressing the complaints from the Ombudsman Program. When the complaints involve a resident with cognitive impairments, an ombudsman generally will schedule a meeting with both the legal representative and the resident so that within their capacity to do so, the resident remains involved in all discussion about the complaints and the desired outcomes. After Complaint Case Records are closed, ombudsmen enter data into a statewide Ombudsman Complaint Tracking System. By federal and state mandates, the complaint tracking system is a confidential data base accessible only by certified long term care ombudsmen. All data from complaints handled by the program is collected quarterly from the 17 Regional Ombudsman Programs in North Carolina. The Office of State Long Term Care Ombudsman compiles the numerical data into an annual report that is submitted to the U. S. Administration on Aging. The Administration on Aging publishes information from all states through the National Ombudsman Reporting System (NORS) and makes it available on its web site: www.aoa.gov.

During 2006, the North Carolina Long Term Care Ombudsman Program handled 3,044 complaints that were received from 1,442 individuals which is a slight increase compared to last year in the number of complaints as well as complainants. A brief review of complaint trends shows the following:

- 1,821 nursing home and 1,223 adult care home complaints were handled by Program representatives. Overall, nursing home complaints decreased by approximately 2.5% while adult care home complaints increased by 11%.
- The Ombudsman Program achieved a general resolution rate of 80% for all the complaints investigated in 2006.
- 2,019 or 67% of total complaints were resolved by the ombudsmen to the satisfaction of the resident or complainant.
- 404 (13%) complaints were partially resolved.
- 336 complaints (11%) investigated by Program representatives resulted in a determination that there was no further action to be taken by the Long Term Care Ombudsman Program.
- 185 complaints (6%) were withdrawn by the resident or complainant prior to investigation by the Ombudsman Program.
- 93 complaints (3%) of all complaints investigated could not be resolved to the satisfaction of the resident or complainant.
- 7 complaints could not be addressed until changes are made in current regulations or until there is legislative action to amend current laws.

- The relative, friend and/or legal representative category represented the largest group of complainants (57%) filing complaints on behalf of nursing home residents.
- Residents (27%) living in nursing facilities were the second largest category of complainants.
- Adult care home residents who contacted ombudsmen directly were the largest complainant category (55%). The number of residents increased by 2% in 2006.
- There was also a 3% increase in the number of relatives or legal representatives who contacted the Program with adult care home complaints.

Charts are incorporated in this year's annual report that compare complaint trends in several ways: 1) ten most recent years, 2) the three most recent years, 3) complaints by facility type, 4) by frequency of a complaint, 5) by complainant type, 6) final disposition of complaints, and 7) the most frequently addressed complaints by facility type. Several graphs are also included that illustrate changes in the number of complaints investigated in connection with facility discharges and allegations of some form of abuse. Tables located on pages 10, 11 and 12 reflect this year's trends in technical assistance, community education and facility staff training. Technical assistance and consultation provided for residents, families and the public increased by 1% while Program consultations with facility staff remained level. There was a 14% increase in the number of community education events conducted by ombudsmen. Part of this increase may have been generated by the massive need to educate beneficiaries, relatives and providers about the newly established Medicare Part D prescription drug program and how to choose an insurance plan that most effectively covered their current prescriptions.

The major complaint categories established in the National Ombudsman Reporting System are

- Residents' Rights,
- Resident Care,
- Quality of Life,
- Administration, and
- Not Against Facility.

Each category contains several subcategories of specific complaints that were identified as having an impact on that major area of resident life. In comparing changes in the total number of complaints (nursing home and adult care home) for each category between 2005 and 2006, there are increases in several subcategories to be noted because of the negative impact on residents' autonomy and quality of life:

Individual Complaint Category	2005	2006
Right of Access to information about rights, benefits	7	11
Confinement in facility against their will	27	32
Violation of the right to refuse care/treatment	6	14
Mismanagement of residents' personal funds	22	42
Response to calls for assistance; call bells	59	67
Medication Administration	104	141
Availability of Physician Services	25	39
Cleanliness, pests, general housekeeping	52	63
Supplies and Linens	14	26
Administrator unavailable, unresponsive	34	44
Shortage of staff	37	53
Resident's Physician not available	19	25

In September 2006, the State Long Term Care Ombudsman was appointed by the United States Bankruptcy Court, Eastern District of North Carolina to serve as the Patient Care Ombudsman for five adult care homes placed in Chapter 11 Bankruptcy by the parent company. The Patient Care Ombudsman language was enacted as part of the 2005 federal Bankruptcy Reform Act which created a new role for State Long Term Care Ombudsmen. The State Ombudsman developed a coverage plan for the five adult care homes which included asking the Regional Ombudsmen who covered these facilities to serve as representatives of the Patient Care Ombudsman to ensure that all the residents had timely visits during which care and services were monitored closely. Official Patient Care Ombudsman Reports have been filed with the United States Bankruptcy Court in sixty-day (60) cycles and posted in each of the facilities. This reporting cycle will continue until the cases are closed.

Ombudsman involvement in both complex guardianship cases and resident smoking issues has continued to be a significant trend identified by the Program this past year. Some long term care facilities have sought the Program's input as they have developed or revised facility smoking policies. When the Program's involvement is requested, every effort is taken to achieve a respectful balance of ensuring resident safety, providing a healthy environment for residents who do not smoke, and allowing individual residents choices about matters that are important to them, such as choosing to smoke.

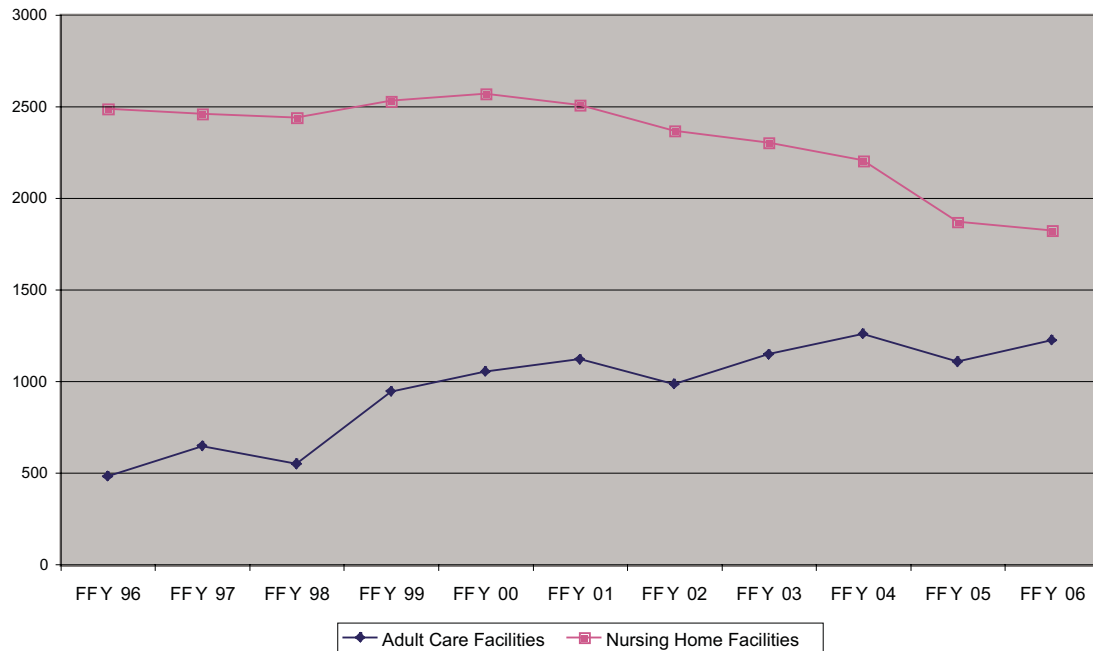
An emerging trend is the increase in the number of complaints being received from younger adult care home residents. Usually these complainants have complicated needs and make multiple complaints that require a significant amount of an ombudsman's time to investigate. While complaints from adult care homes have increased, the program data also indicates that nursing home complaints have simultaneously

decreased since 2004. This may become an important trend to be studied because the Older Americans Act mandates the Program to serve persons 60 and over who reside in a licensed long term care facility. What is not known at this time is whether:

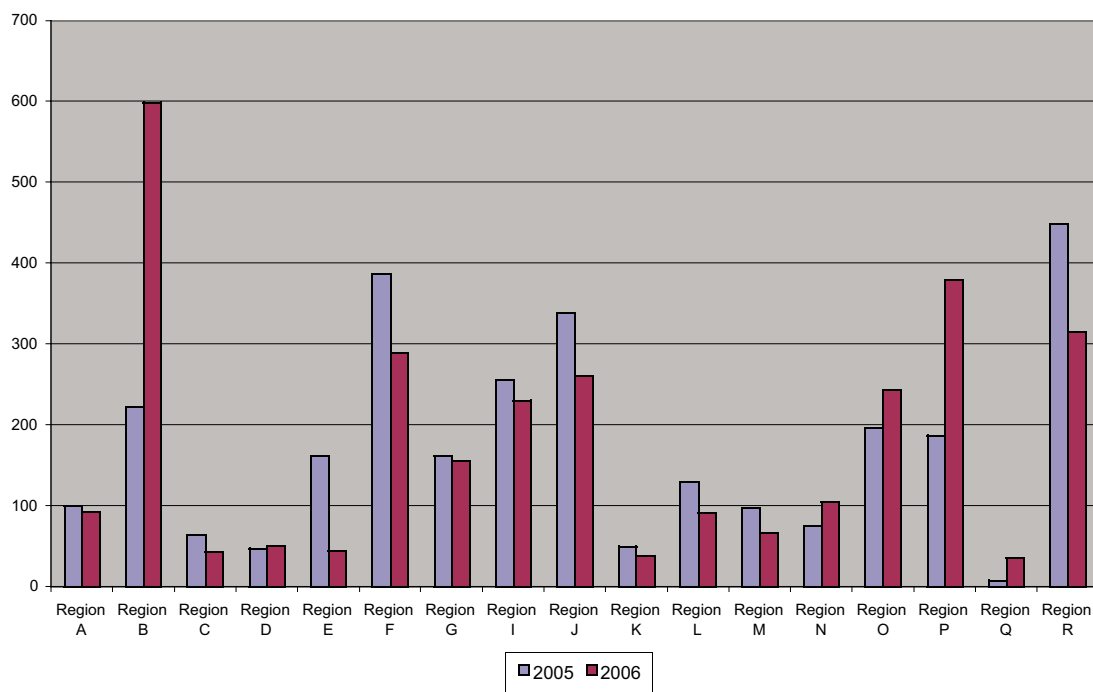
- 1) Requests for ombudsman assistance by the adult care home population are overwhelming the available ombudsmen advocacy services to the extent that the nursing home population is experiencing less direct access to the Program's advocacy services, and
- 2) Whether the eight new regional ombudsman positions will change the course of this trend in service delivery over the next few years.

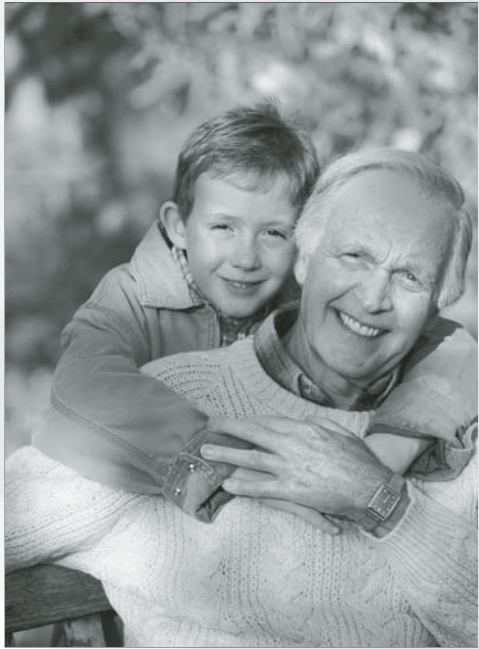
Requests for advocacy, grievance resolution and access services from the Long Term Care Ombudsman Program have continued to increase and are expected to continue to do so as demands for service from the Baby Boomer generation impact all aging services including the Long Term Care Ombudsman Program.

Ombudsman Program Complaint Trends by Facility Type FFY 1996 - FFY 2006



Complaint Trends by Region





Nursing Homes

2006

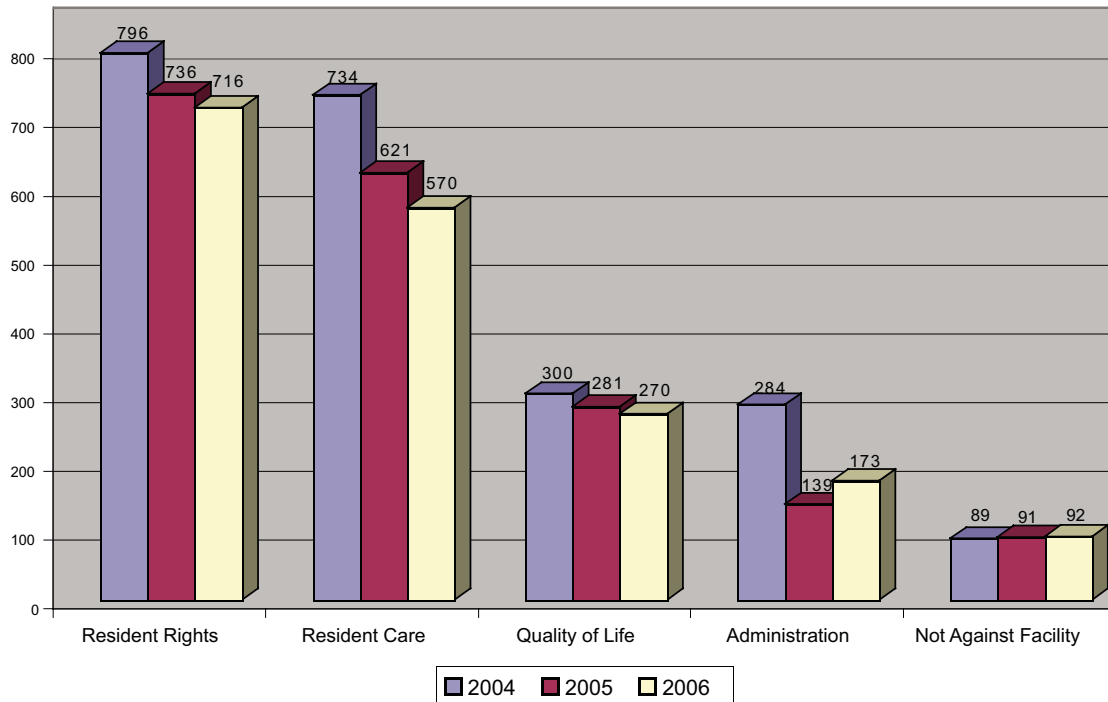
Type of Facility	Number of Licensed Facilities	Number of Licensed Beds
Nursing Homes	445	49,210

5 Most Frequent Complaints in Nursing Homes

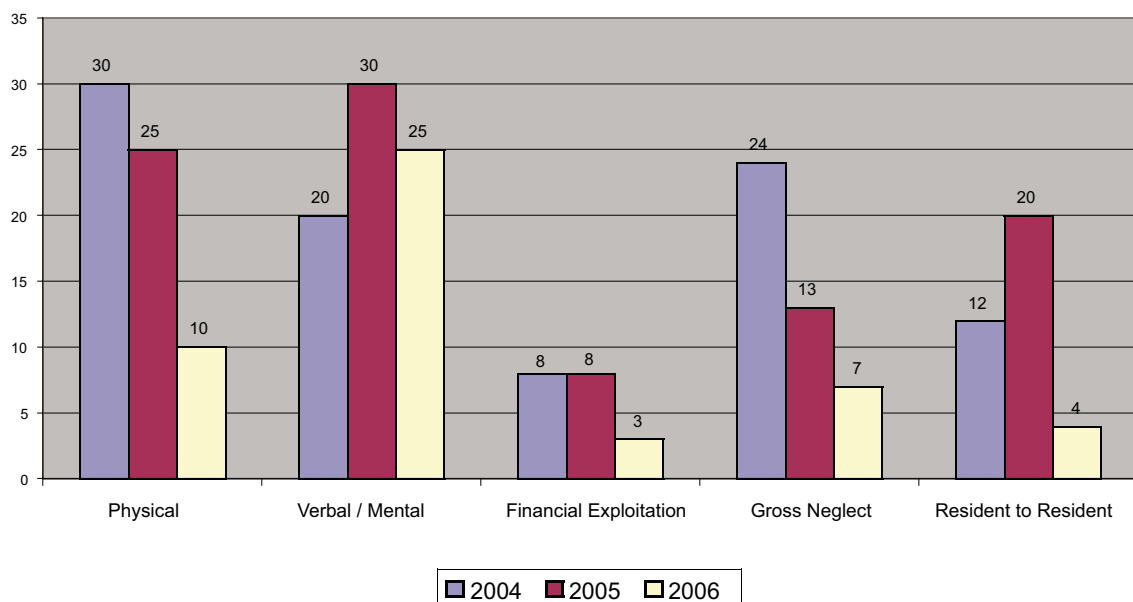
2006 National Ombudsman Reporting System Data		
Complaint Category	Number of Complaints	Percentage of Total Complaints
Call lights, requests for assistance	14,186	6.40%
Discharge/eviction-planning, notice procedures, implementation	8,526	3.85%
Dignity, respect-staff attitudes	8,408	3.80%
Care plan/resident assessment	8,408	3.80%
Accidents, improper handling	7,736	3.49%

2006 North Carolina Ombudsman Complaint Tracking System Data		
Complaint Category	Number of Complaints	Percentage of Total Complaints
Discharge/eviction-planning, notice, procedures, implementation	162	8.9%
Dignity, respect, staff attitudes	122	6.7%
Personal hygiene- nail care and oral hygiene and adequacy of dressing and grooming	81	4.4%
Billing/charges-notice, approval, questionable, accounting wrong or denied	75	4.1%
Inadequate supervision of resident, kept up too long, resident falls	73	4.0%

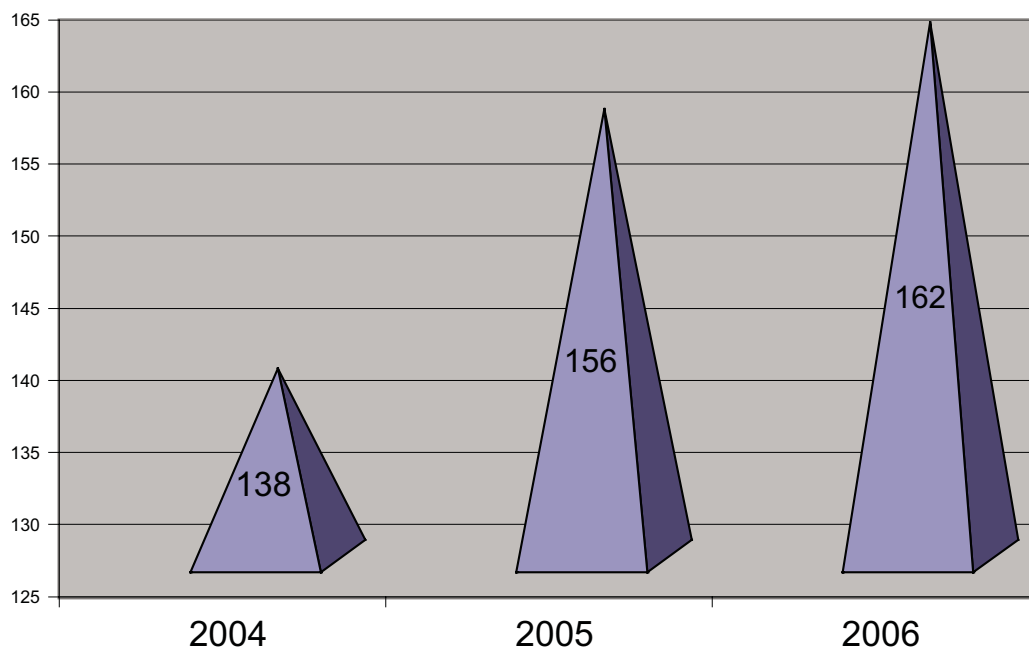
Three-Year Comparison of Nursing Home Complaints FFY 2004 - FFY 2006



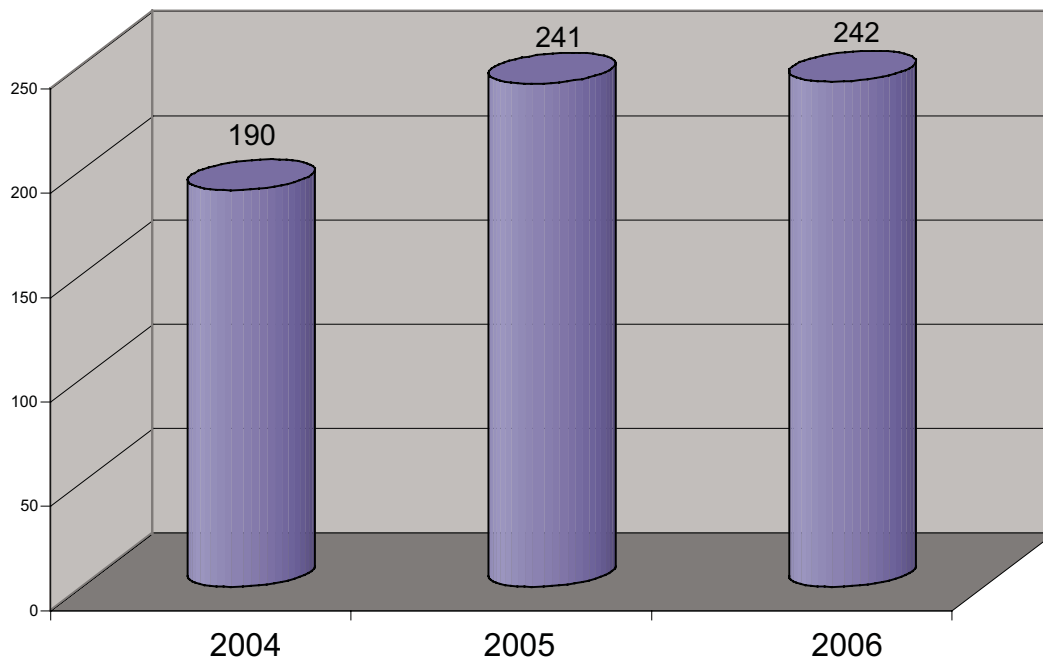
Abuse Complaints in Nursing Homes FFY 2004 - 2006



Complaints about Nursing Home Discharge Plans/Procedures FFY 2004 - FFY 2006



Complaints Filed by Nursing Homes Residents FFY 2004 - FFY 2006



Adult Care Homes

2006

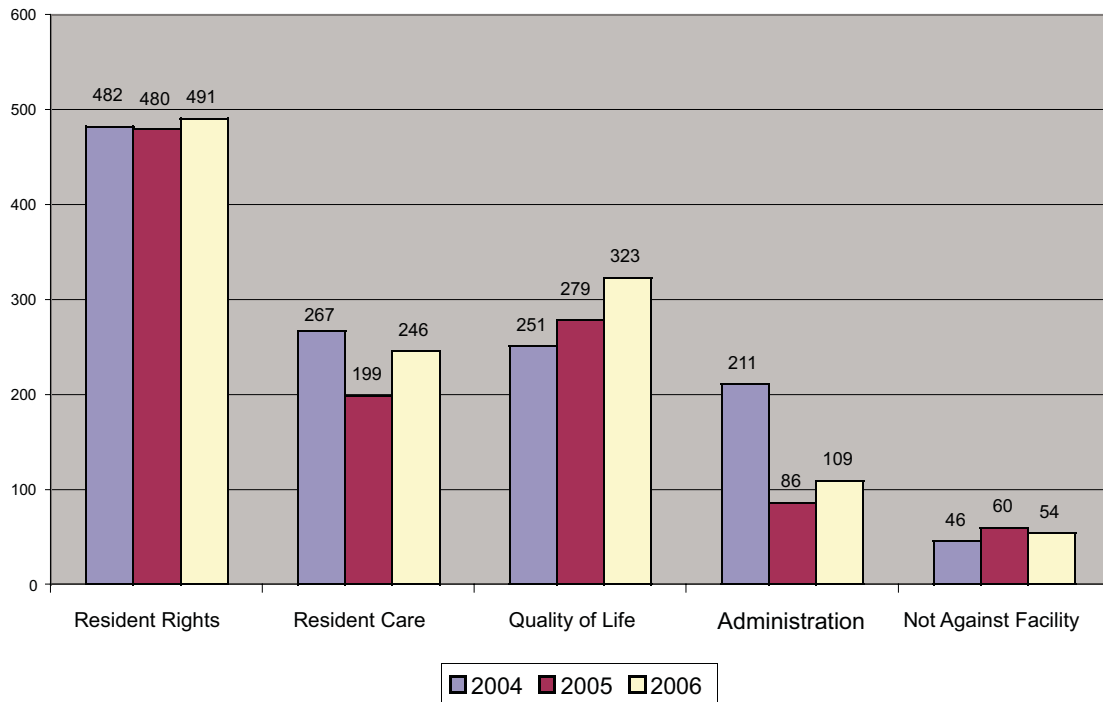
Type of Facility	Number of Licensed Facilities	Number of Licensed Beds
Adult Care Homes	1,303	40,461

5 Most Frequent Complaints in Adult Care Homes

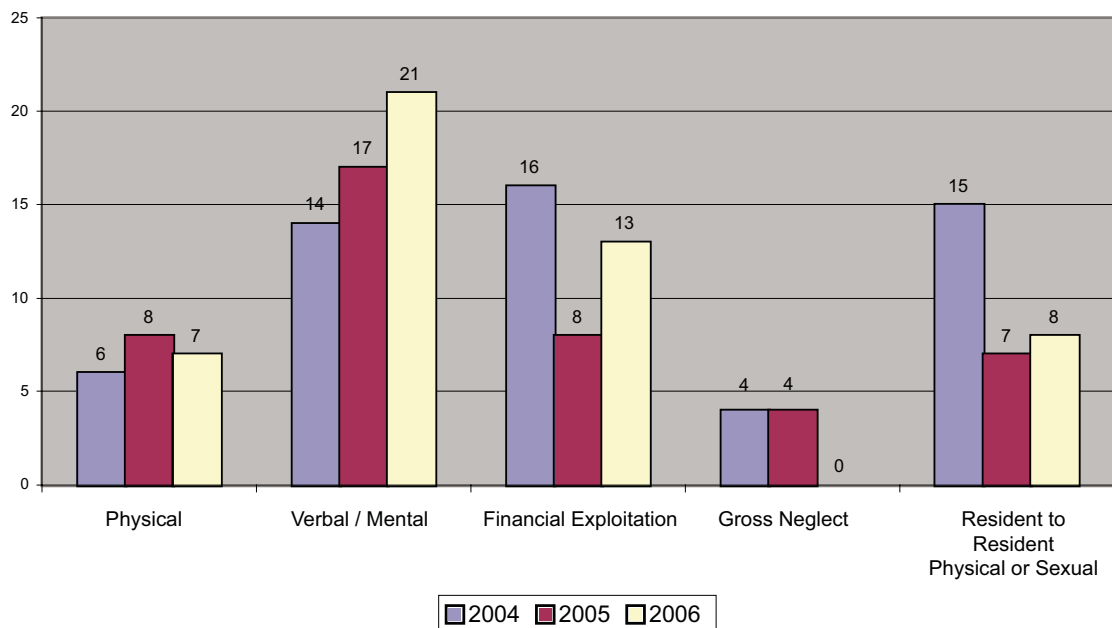
2006 National Ombudsman Reporting System Data		
Complaint Category	Number of Complaints	Percentage of Total Complaints
Medications-administration, organization	3,094	5.09%
Menu/food service-quantity, quality, variation, choice, condiments, utensils	2,930	4.82%
Discharge/eviction-planning, notice, procedures, implementation	2,699	4.44%
Equipment/ building-disrepair, hazard, Poor lighting, fire safety	2,181	3.59%
Dignity, respect-staff attitudes	2,022	3.33%

2006 North Carolina Ombudsman Complaint Tracking System Data		
Complaint Category	Number of Complaints	Percentage of Total Complaints
Medications-administration, organization	83	6.7%
Discharge/eviction-planning, notice, procedures, implementation	82	6.7%
Dignity, respect, staff attitudes	64	5.2%
Menu/food service-quantity, quality, variation, choice, condiments, utensils	60	4.9%
Billing/charges-notice, approval, questionable, accounting wrong or denied (includes overcharge of private pay residents)	58	4.7%

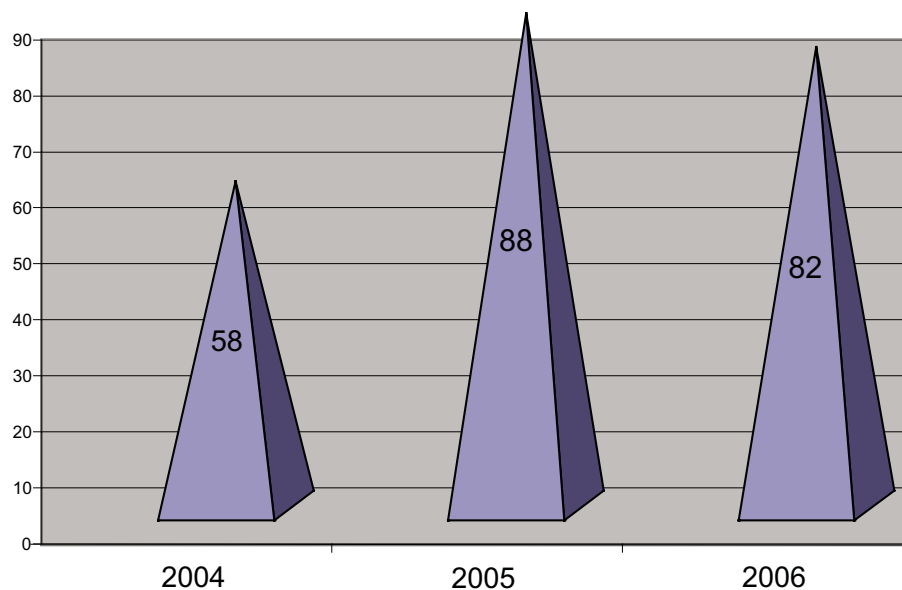
Three-Year Comparison of Adult Care Home Complaints FFY 2004 - FFY 2006



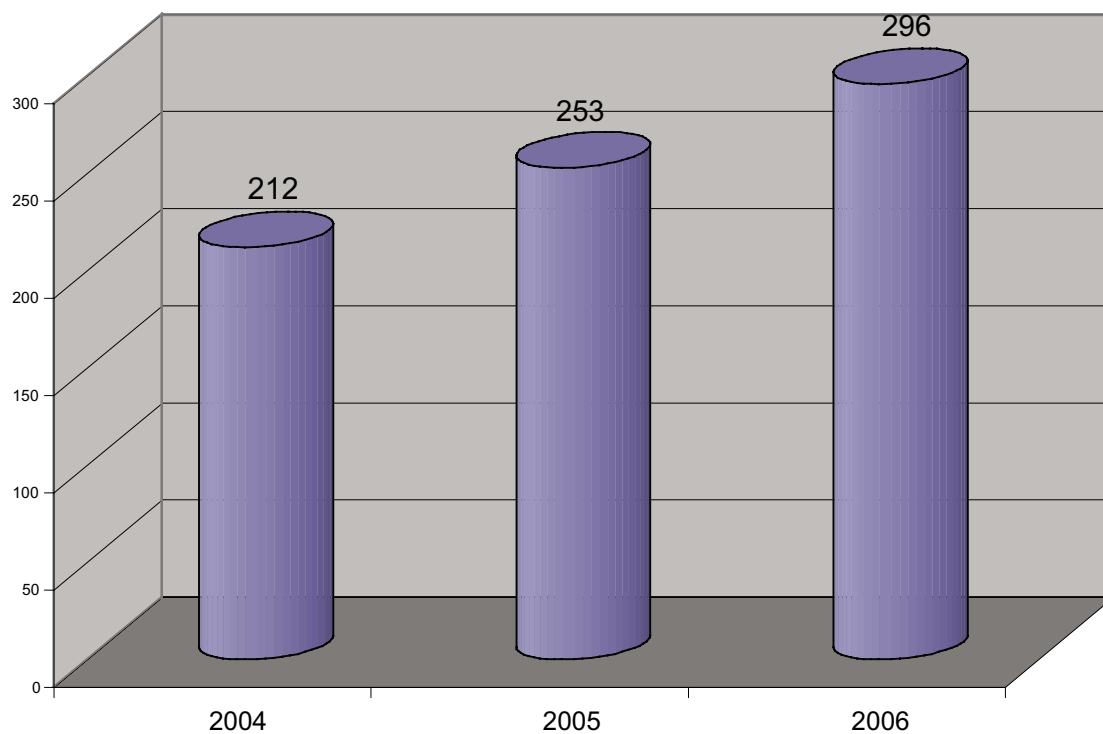
Abuse Complaints in Adult Care Homes FFY 2004 - FFY 2006



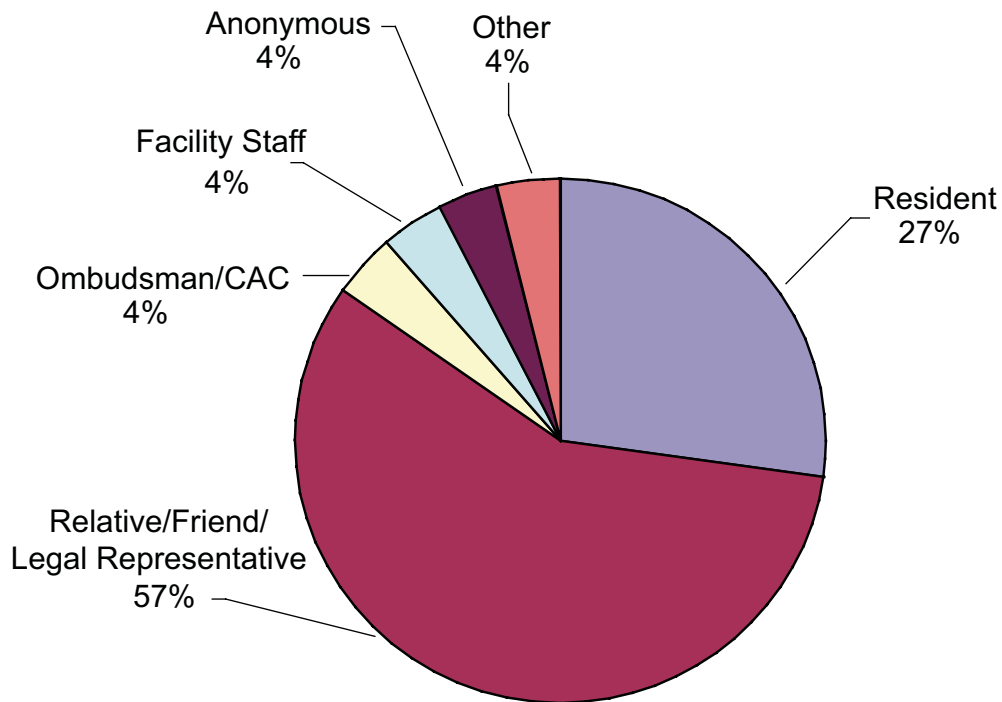
Complaints about Adult Care Homes Discharge Plans/Procedures FFY 2004 - FFY 2006



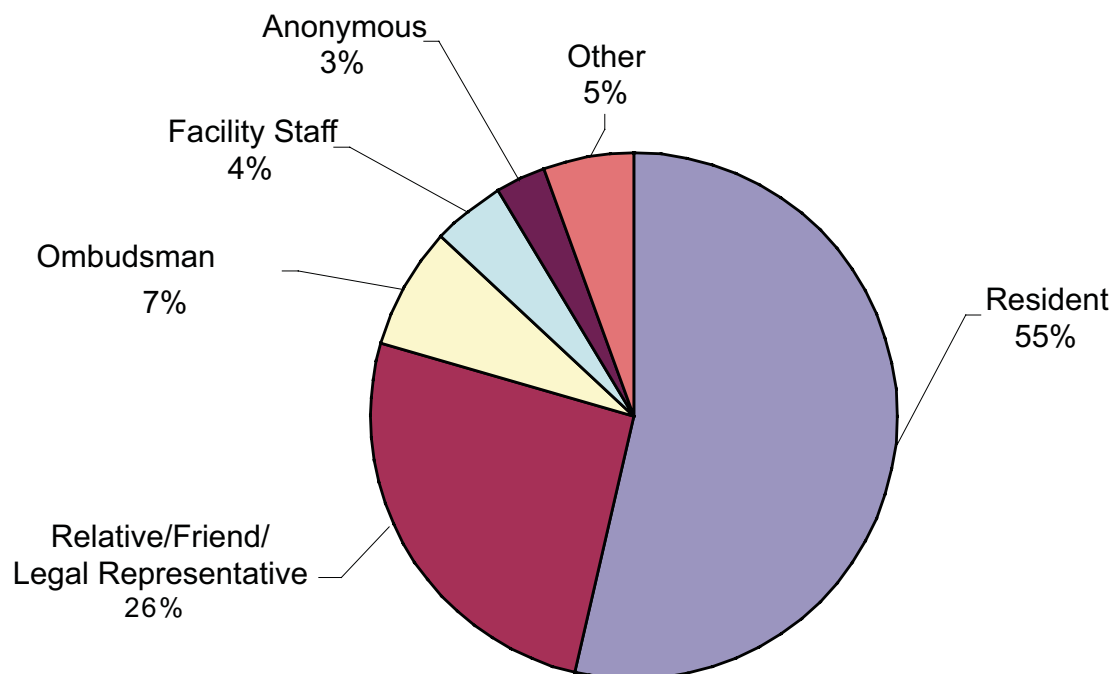
Complaints Filed by Adult Care Home Residents FFY 2004 - FFY 2006



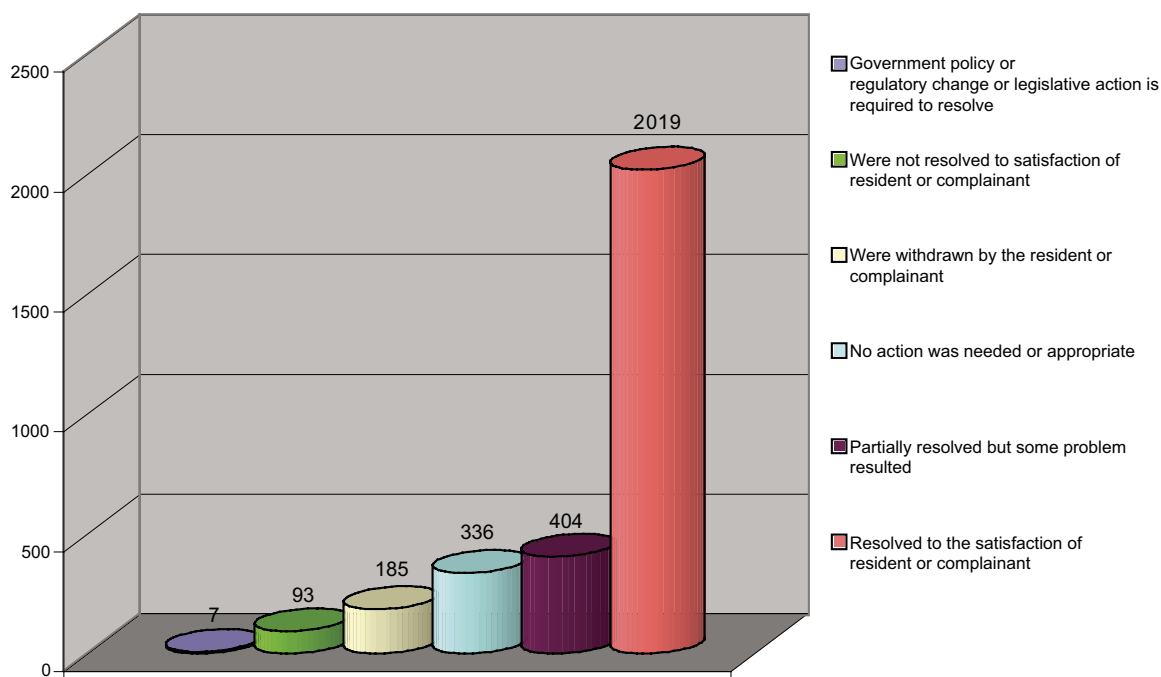
Nursing Homes Complainants 2006



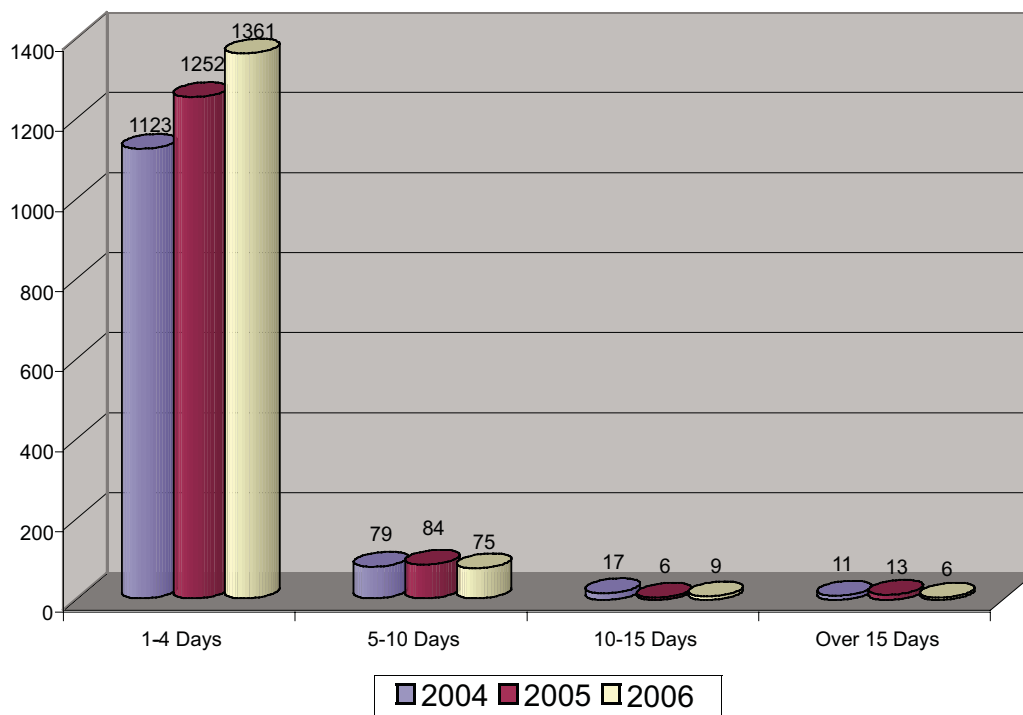
Adult Care Home Complainants 2006



Disposition of All 2006 Complaints



Response Time to Complaints FFY 2004 - FFY 2006



Resident Discovers Quality of Life through His Art

The Regional Ombudsman had noticed Mr. Brock during her visits to a local assisted living facility. He was a slightly built man who appeared to be in his mid-70s. She observed that he bent a bit forward as he slowly walked to greet others, that he was a man of few words and that he took great pleasure in people looking at his drawings which were posted in the hall leading to the dining room.

Several times the Regional Ombudsman had chatted with Mr. Brock as he worked quietly in the corner of the staff break room. She learned that he liked to work there because it was quiet, had a big flat table, and a nice window which provided him with a view of the grassy lawn at the rear of the adult care facility. He spent hours there working on his pencil drawings which mostly came from his memories. Many of his drawings reflected farm life and the change of seasons—a quieter and more pleasant time in his life.

He shared that he didn't have any formal artistic training. After his parents died, he went to work loading boxes for a paper company at age 15. He and his sister shared a home for the next 50 years. They enjoyed looking at the birds and tending their garden. He said occasionally he would sit in the kitchen and draw 'deco art' style line drawings or "something modern!" Mr. Brock shared that his greatest loss was the death of his sister. His greatest joy is a grand niece who is studying sculpture at Virginia Commonwealth University.

After he came to live in the assisted living facility, Mr. Brock found the days seemed very long so he began drawing as part of the facility's Activity Program. He said he found peace in the quiet solitude of his pencil drawings. Later, a local church group who visited the adult care home gave him a sketch pad and a box of colored pencils to encourage him to continue drawing.

Today, he draws farm scenes with old red barns, a grits mill, and quiet trees on the banks of a mill race. Sometimes he draws a simple leaf, a wheel barrow, or an old Ford pickup truck, all from his memories. He is proud of his work. His days have meaning!

Mr. Brock's work was submitted by the Regional Ombudsman to the "Care Matters" Competition sponsored by the National Citizens' Coalition for Nursing Home Reform in 2006. He was awarded a very nice Recognition Certificate. This Certificate was framed and presented to Mr. Brock at the Resident Council Meeting in his facility.





Appendices

Appendix A

North Carolina Adult Care Home Bill of Rights (Condensed Version)

Every resident shall have the following rights:

1. To be treated with respect, consideration, dignity and full recognition of his or her individuality and right to privacy.
2. To receive care and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.
3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
4. To be free of mental and physical abuse, neglect and exploitation.
5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
6. To have his or her personal and medical record kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom disclosure may be made except as required by applicable state or federal statute or regulation or by third party contract.
7. To receive a reasonable response to his or her requests from the facility administrator and staff.
8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.
9. To have access at any reasonable hour to a telephone where he or she may speak privately.
10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery and postage.
11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.
12. To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of personal valuables. This space shall be accessible only to the residents and the administrator or supervisor in charge.
13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
14. To be notified when the facility is issued a provisional license by the North Carolina Department of Health and Human Services and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
15. To have freedom to participate by choice in accessible community activities and in social, political, medical and religious resources and to have freedom to refuse such participation.
16. To receive upon admission to the facility a copy of this section.
17. To not be transferred or discharged from a facility except for medical reasons, their own or other residents' welfare, or nonpayment. Except in cases of immediate jeopardy to health or safety, residents shall be given at least 30 days advance notice of the transfer or discharge and their right to appeal.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is: _____ Telephone: _____

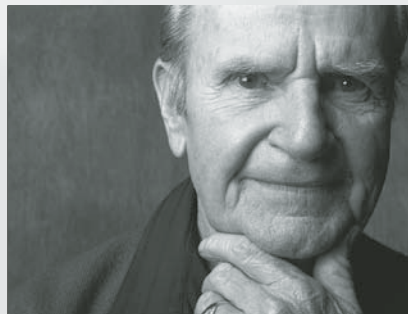
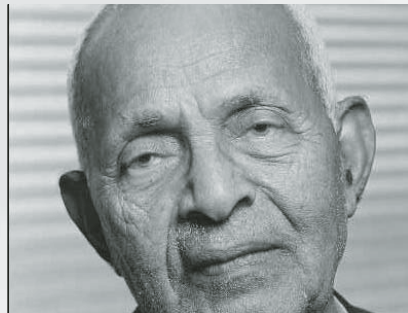
North Carolina Bill of Rights for Nursing Home Residents (Condensed Version)

Every resident shall have the following rights:

1. To be treated with consideration, respect and full recognition of personal dignity and individuality.
2. To receive care, treatment, and services that are adequate and appropriate, and in compliance with relevant federal and State rules.
3. To receive at the time of admission and during stay, a written statement of services provided by the facility and of related charges. Charges for services not covered under Medicare and Medicaid shall be specified.
4. To have on file physician's orders with proposed schedule of medical treatment. Written, signed evidence of prior informed consent to participation in experimental research shall be in patient's file.
5. To receive respect and privacy in his medical care program. All personal and medical records are confidential.
6. To be free of mental and physical abuse. To be free of chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical records.
7. To receive from the administrator or staff of the facility a reasonable response to all requests.
8. To receive visitors or have access to privacy in phone use at any reasonable hour. To send and receive mail promptly and unopened, with access to writing materials.
9. To manage his/her own financial affairs unless other legal arrangements have been so ordered.
10. To have privacy in visits by the patient's spouse.
11. To enjoy privacy in his/her own room.
12. To present grievances and recommend changes in policies and services without fear of reprisal, restraint, interference, coercion or discrimination.
13. To not be required to perform services for the facility without resident's consent and written approval of the attending physician.
14. To retain, to secure storage for, and to use his personal clothing and possessions, where reasonable.
15. To not be transferred or discharged from a facility except for medical, financial, or their own or other patient's welfare. Any such transfer shall require at least five days' notice, unless the attending physician orders immediate transfer, which shall be documented in the patient's medical record.
16. To be notified when the facility's license is revoked or made provisional. The responsible party or guardian must be notified, also.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is: _____ Telephone: _____



Appendix B

Title VII, Chapter 2, Section 712 200 Amendments to the Older Americans Act

Sec 712 (42 U.S.C. 3058g) State Long Term Care Ombudsman Program.

(a) Establishment.

(1) In general. In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702 and made available to carry out this chapter, a State agency shall, in accordance with this section

(A) establish and operate an Office of the State Long Term Care Ombudsman; and

(B) carry out through the Office a State Long Term Care Ombudsman program.

(2) Ombudsman. The Office shall be headed by an individual, to be known as the State Long Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long term care and advocacy.

(3) Functions. The Ombudsman shall serve on a full time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that—

(i) are made by, or on behalf of, residents and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

- (F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;
 - (G) (i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long term care facilities and services in the State;
 - (ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and
 - (iii) facilitate public comment on the laws, regulations, policies, and actions;
 - (H) (i) provide for training representatives of the Office;
 - (ii) promote the development of citizen organizations, to participate in the program; and
 - (iii) provide technical support for the development of resident and family councils to protect the well being and rights of residents; and
 - (I) carry out such other activities as the Assistant Secretary determines to be appropriate
- (4) Contracts and arrangements.
- (A) In general. Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.
 - (B) Licensing and certification organizations; associations. The State agency may not enter into the contract or other arrangement described in subparagraph (A) with
 - (i) an agency or organization that is responsible for licensing or certifying long term care services in the State; or
 - (ii) an association (or an affiliate of such an association) of long term care facilities, or of any other residential facilities for older individuals.
- (5) Designation of local ombudsman entities and representatives.
- (A) Designation. In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.
 - (B) Duties. An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency

- (i) provide services to protect the health, safety, welfare and rights of residents;
- (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;
- (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or

- (iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(v)

- (I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and
- (II) facilitate the ability of the public to comment on the laws, regulation, policies, and actions;

- (vi) support the development of resident and family councils; and

- (vii) carry out other activities that the Ombudsman determines to be appropriate.

(C) Eligibility for designation. Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall

- (i) have demonstrated capability to carry out the responsibilities of the Office;
- (ii) be free of conflicts of interest and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves;
- (iii) in the case of the entities, be public or nonprofit private entities; and
- (iv) meet such additional requirements as the Ombudsman may specify.

(D) Policies and procedures.

- (i) In general. The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.
- (ii) Policies. In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with

respect to case activity.

- (iii) Confidentiality and disclosure. The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

(b) Procedures for Access.

- (1) In General. The State shall ensure that representatives of the Office shall have
 - (A) access to long term care facilities and residents;
 - (B) (i) appropriate access to review the medical and social records of a resident, if
 - (I) the representative has the permission of the resident, or the legal representative of the resident; or
 - (II) the resident is unable to consent to the review and has no legal representative; or
 - (ii) access to the records as is necessary to investigate a complaint if
 - (I) a legal guardian of the resident refuses to give the permission;
 - (II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
 - (III) the representative obtains the approval of the Ombudsman;
 - (C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long term care facilities; and
 - (D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long term care facilities.
- (2) Procedures. The State agency shall establish procedures to ensure the access described in paragraph (1).

(c) Reporting System. The State agency shall establish a statewide uniform reporting system to

- (1) collect and analyze data relating to complaints and conditions in long term care facilities and to residents for the purpose of identifying and resolving significant problems; and
- (2) submit the data, on a regular basis, to
 - (A) the agency of the State responsible for licensing or certifying long term care facilities in the State;
 - (B) other State and Federal entities that the Ombudsman determines to be appropriate;
 - (C) the Assistant Secretary; and
 - (D) the National Ombudsman Resource Center established in section 202(a)(21).

- (d) Disclosure.
- (1) In general. The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).
 - (2) Identity of complainant or resident. The procedures described in paragraph (1) shall
 - (A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and
 - (B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless
 - (i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;
 - (ii) (I) the complainant or resident gives consent orally; and
 - (II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or
 - (iii) the disclosure is required by court order.
- (e) Consultation. In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long term care.

- (f) Conflict of Interest.—The State agency shall—
- (1) Ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;
 - (2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;
 - (3) ensure that the Ombudsman
 - (A) does not have a direct involvement in the licensing or certification of a long term care facility or of a provider of a long term care service;
 - (B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long term care facility or a long term care service;

- (C) is not employed by, or participating in the management of, a long term care facility; and
- (D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long term care facility; and
- (4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as
 - (A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and
 - (B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.
- (g) Legal Counsel. The State agency shall ensure that
 - (1) (A) adequate legal counsel is available, and is able, without conflict of interest, to
 - (i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and
 - (ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and
 - (B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and
 - (2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.
- (h) Administration. The State agency shall require the Office to
 - (1) prepare an annual report
 - (A) describing the activities carried out by the Office in the year for which the report is prepared;
 - (B) containing and analyzing the data collected under subsection (c);
 - (C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;
 - (D) containing recommendations for
 - (i) improving quality of the care and life of the residents; and
 - (ii) protecting the health, safety, welfare, and rights of the residents;
 - (E) (1) analyzing the success of the program including success in providing

services to residents of board (and care facilities and other similar adult care facilities; and

(ii) identifying barriers that prevent the optimal operation of the program; and

(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulation, and policies as the Office determines to be appropriate;

- (3) (A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding
- (i) the problems and concerns of older individuals residing in long term care facilities; and
- (ii) recommendations related to the problems and concerns; and
- (B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);
- (4) strengthen and update procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long term care providers, and the Office, that
- (A) specify a minimum number of hours of initial training;
- (B) specify the content of the training, including training relating to
- (i) Federal, State, and local laws, regulations, and policies, with respect to long term care facilities in the State;
- (ii) investigative techniques; and
- (iii) such other matters as the State determines to be appropriate; and
- (C) specify an annual number of hours of in service training for all designated representatives;
- (5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative

- (A) has received the training required under paragraph (4); and
 - (B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;
 - (6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under
 - (A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and
 - (B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);
 - (7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means ;
 - (8) coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and
 - (9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).
- (i) Liability. The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.
- (j) Noninterference. The State shall

 - (1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;
 - (2) prohibit retaliation and reprisals by a long term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and
 - (3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

Appendix C

Long-Term Care Ombudsman Program.

Part 14D. North Carolina State Long-term Care Ombudsman Program

§ 143B-181.15. Long-Term Care Ombudsman Program/Office; policy.

It is the intent of the General Assembly to protect and improve the quality of care and life for residents through the establishment of a program to assist residents and providers in the resolution of complaints or common concerns, to promote community involvement and volunteerism in long-term care facilities, and to educate the public about the long-term care system.

The General Assembly finds that a significant number of older citizens of this State reside in long-term care facilities and are dependent on others to provide their care. It is the further intent of the General Assembly that the Department of Health and Human Services, within available resources and pursuant to its duties under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., ensure that the quality of care and life for these residents is maintained, that necessary reports are made, and that, when necessary, corrective action is taken at the Department level. (1989, c. 403, s. 1; 1995, c. 254, s. 1; 1997-443, s. 11A.118 (a).)

§ 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.

Unless the content clearly requires otherwise, as used in this Article:

- (1) “Long-term care facility” means any skilled nursing facility and intermediate care facility as defined in G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).
- (2) “Resident” means any person who is receiving treatment or care in any long-term care facility.
- (3) “State Ombudsman” means the State Ombudsman as defined by the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., who carries out the duties and functions established by this Article.
- (4) “Regional Ombudsman” means a person employed by an Area Agency on Aging to carry out the functions of the Regional Ombudsman Office established by this Article. (1989, c. 403, s. 1; 1995, c. 254, s. 2; c. 535, s. 35.)

§ 143B-181.17. Office of State Long-Term Care Ombudsman Program/Office;
establishment.

The Secretary of Department of Health and Human Services shall establish and maintain the Office of State Long-Term Ombudsman in the Division of Aging. The Office shall carry out the functions and duties required by the Older Americans Act of 1965, as amended. This Office shall be headed by a State Ombudsman who is a person qualified by training and with experience in geriatrics and long-term care. The Attorney General shall provide legal staff and advice to this Office. (1989, c. 403, s. 1; 1997-443, s. 11A.118 (a).)

§ 143B-181.18. Office of State Long-Term Care Ombudsman Program/State
Ombudsman duties.

The State Ombudsman shall:

- (1) Promote community involvement with long-term care providers and residents of long-term care facilities and serve as liaison between residents, residents' families, facility personnel, and facility administration;
- (2) Supervise the Long-Term Care Program pursuant to rules adopted by the Secretary of the Department of Health and Human Services pursuant to G.S. 143B-10;
- (3) Certify regional ombudsmen. Certification requirements shall include an internship, training in the aging process, complaint resolution, long-term care issues, mediation techniques, recruitment and training of volunteers, and relevant federal, State, and local laws, policies, and standards;
- (4) Attempt to resolve complaints made by or on behalf individuals who are residents of long-term care facilities, which complaints relate to administrative action that may adversely affect the health, safety, or welfare of residents;
- (5) Provide training and technical assistance to regional ombudsmen;
- (6) Establish procedures for appropriate access by regional ombudsmen to long-term care facilities and residents' records including procedures to protect the confidentiality of these records and to ensure that the identity of any complainant or resident will not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.;
- (7) Analyze data relating to complaints and conditions in long-term care facilities to identify significant problems and recommend solutions;
- (8) Prepare an annual report containing data and findings regarding the types of problems experienced and complaints reported by residents as well as recommendations for resolutions of identified long-term care issues;

- (9) Prepare findings regarding public education and community involvement efforts and innovative programs being provided in long-term care facilities; and
- (10) Provide information to public agencies, and through the State Ombudsman, to legislators, and others regarding problems encountered by residents or providers as well as recommendations for resolution. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a).)

§ 143B-181.19. Office of Regional Long-Term Care Ombudsman; Regional Ombudsman; duties.

- (a) An Office of Regional Ombudsman Program shall be established in each of the Area Agencies on Aging, and shall be headed by a Regional Ombudsman who shall carry out the functions and duties of the Office. The Area Agency on Aging administration shall provide administrative supervision to each Regional Ombudsman.
- (b) Pursuant to policies and procedures established by the State Office of Long-Term Care Ombudsman, the Regional Ombudsman shall:
 - (1) Promote community involvement with long-term care facilities and residents of long-term care facilities and serve as a liaison between residents, residents' families, facility personnel, and facility administration;
 - (2) Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;
 - (3) Collect data about the number and types of complaints handled;
 - (4) Work with long-term care providers to resolve issues of common concern;
 - (5) Work with long-term care providers to promote increased community involvement;
 - (6) Offer assistance to long-term care providers in staff training regarding residents' rights;
 - (7) Report regularly to the office of State Ombudsman about the data collected and about the activities of the Regional Ombudsman;
 - (8) Provide training and technical assistance to the community advisory committees; and
 - (9) Provide information to the general public on long-term care issues. (1989, c. 403.)

§ 143B-181.20. State/Regional Long-Term Care Ombudsman; authority to enter; cooperation of government agencies; communication with residents.

- (a) The State and Regional Ombudsman may enter any long-term care facility and may have reasonable access to any resident in the reasonable pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the patient records as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. §3001 et seq., and under procedures established by the State Ombudsman pursuant to G.S. 143B-181.18(6). Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the patient's records except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., is guilty of a Class 1 misdemeanor.
 - (b) The State or Regional Ombudsman shall identify himself as such to the resident, and the resident has the right to refuse to communicate with the Ombudsman.
- (c) The resident has the right to participate in planning any course of action to be taken on his behalf by the State or Regional Ombudsman, and the resident has the right to approve or disapprove any proposed action to be taken on his behalf by the Ombudsman.
- (d) The State or Regional Ombudsman shall meet with the facility administrator or person in charge before any action is taken to allow the facility the opportunity to respond, provide additional information, or take appropriate action to resolve the concern.
 - (e) The State and Regional Ombudsman may obtain from any government agency, and this agency shall provide, that cooperation, assistance, services, data, and access to files and records that will enable the Ombudsman to properly perform his duties and exercise his powers, provided this information is not privileged by law.
 - (f) If the subject of the complaint involves suspected abuse, neglect, or exploitation, the State or Regional Ombudsman shall notify the county department of social services' Adult Protection Services section of the county department of social services, pursuant to Article 6 of Chapter 108A of the General Statutes. (1989, c. 403, s. 1; 1993, c. 539, s. 1038; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 254, s. 4.)

§ 143B-181.21. State/Regional Long-Term Care Ombudsman; resolution of complaints.

- (a) Following receipt of a complaint, the State or Regional Ombudsman shall attempt to resolve the complaint using, whenever possible, informal technique of mediation, conciliation, and persuasion.
- (b) Complaints or conditions adversely affecting residents of long-term care facilities that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the State or Regional Ombudsman to the appropriate licensure agency pursuant to G.S. 131E-100 through 110 and G.S. 131D-2. (1989, c. 403.)

§ 143B-181.22. State/Regional Long-Term Care Ombudsman; confidentiality.

The identity of any complainant, resident on whose behalf a complaint is made, or any individual providing information on behalf of the resident or complainant relevant to the attempted resolution of the complaint along with the information produced by the process of complaint resolution is confidential and shall be disclosed only as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. (1989, c. 403, s. 1; 1995, c. 254, s. 5.)

§ 143B-181.23. State/Regional Long-Term Care Ombudsman; prohibition of retaliation.

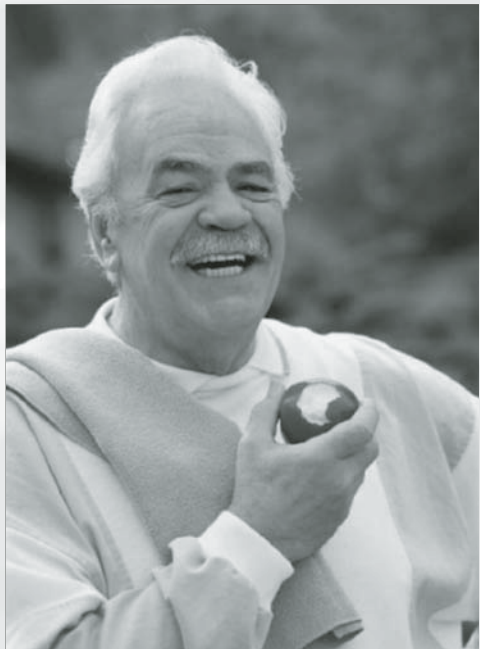
No person shall discriminate or retaliate in any manner against any resident or relative or guardian of a resident, any employee of a long-term care facility, or any other person because of the making of a complaint or providing of information in good faith to the State Ombudsman or Regional Ombudsman. (1989, c. 403.)

§ 143B-181.24. Office of State/Regional Long-Term Care Ombudsman; immunity from liability.

No representative of the Office shall be liable for good faith performance of official duties. (1989, c. 403.)

§ 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a Class 1 misdemeanor. (1989, c. 403; 1993, c. 539, s. 1039; 1994, Ex. Sess., c. 24, s. 14(c).)



Appendix D

Long Term Care Ombudsman Program

Sharon Wilder (sharon.wilder@ncmail.net), State Long Term Care Ombudsman
Kathryn Lanier (kathryn.lanier@ncmail.net), Ombudsman Program Specialist
Denise Rogers (denise.rogers@ncmail.net), Ombudsman/Elder Rights Specialist

NC Division of Aging, 2101 Mail Service Center
Raleigh, North Carolina 27699-2101
Phone: 919-733-8395 Fax: 919-715-0868
North Carolina Regional Ombudsmen

A

Sara Melton

Southwestern Planning Commission
125 Bonnie Lane
Sylva, N.C. 28779
Telephone (828) 586-1962 Ext 220
Fax # (828) 586-1968
e-mail: sarajane@regiona.org

Counties: Cherokee, Clay, Graham, Haywood,
Jackson, Macon and Swain

B

**Barbara Hinshaw, Terry Collins
and Lee Ann Smith**

Land-of-Sky Regional Council
25 Heritage Drive
Asheville, N.C. 28806
(828) 251-6622 FAX: (828) 251-6353
Toll-Free: 1-800-727-0557
e-mail: barbara@landofsky.org
terry_c@landofsky.org
lasmith@landofsky.org

Counties: Buncombe, Henderson, Madison and
Transylvania

C

Lori Simpson and Mandy Johnson

Isothermal Commission
P.O. Box 841
Rutherfordton, N.C. 28139
(828) 287-2281
Toll Free: 1-800-331-09891
FAX: (828) 287-2735
e-mail: lsimpson@regionc.org,
mjohnson@regionc.org

Counties: Cleveland, McDowell, Polk and Rutherford

D

Alex Jernigan

High Country Council of Governments
P.O. Box 1820
Boone, N.C. 28607
(828) 265-5434 ext. 126 / FAX: (828) 265-5439
Toll Free: 1-866-219-3643
e-mail: ajernigan@regiond.org

Counties: Alleghany, Ashe, Avery, Mitchell, Watauga,
Wilkes and Yancey

E

Roxanne Powell

Western Piedmont Council of Governments
P O Box 9026
Hickory, N.C. 28603
(828) 485-4213
FAX: (828) 322-5991
e-mail: roxanne.powell@nwpcog.org

Counties: Alexander, Burke, Caldwell and Catawba

F

Debi Lee, Cindy Kincaid, Hillary Kaylor, Pat Cowan, Laurie Abounader and Heather Armstrong

Centralina Council of Governments
P.O. Box 35008
Charlotte, N.C. 28235
(704) 348-2714, 348-2715, 348-2724, 688-6503,
348-2739 and 688-6504 / FAX: (704) 347-4710
Toll Free: 1-800-508-5777
e-mail: dlee@centralina.org
ckincaid@centralina.org
hkaylor@centralina.org
pcowan@centralina.org
labounader@centralina.org
harmstrong@centralina.org

Counties: Anson, Cabarrus, Gaston, Iredell, Lincoln,
Mecklenburg, Rowan, Stanley, Union

G

Don Heermans, Dorian Fredricksen and Kim Daleus

Piedmont Triad Council of Governments
2216 W. Meadowview Road, Suite 201
Greensboro, N.C. 27407-3480
(336) 294-4950
FAX: (336) 632-0457
e-mail: dheermans@ptcog.org
dfredricksen@ptcog.org
kdaleus@ptcog.org

Counties: Alamance, Caswell, Davidson, Guilford,
Montgomery, Randolph and Rockingham

I

Grecia Jones-King and Vickie Turner

Northwest Piedmont Council of Governments
400 W. Fourth Street, Suite 400
Winston-Salem, N.C. 27101
(336) 761-2111
FAX: (336) 761-2112
e-mail: vturner@nwpcog.org
gjonesking@nwpcog.org

Counties: Davie, Forsyth, Stokes, Surry and Yadkin

J

Jill Passmore, Nancy Murphy, Aimee Kepler and Carmelita Karhoff, Jennifer Link
Triangle J Council of Governments
P.O. Box 12276
Research Triangle Park, N.C. 27709
(919) 558-9401, (919) 558-2703, (919) 558-2714,
(919) 558-2719 and (919) 558-9404
FAX: (919) 549-9390
Toll Free: 1-800-310-9777
e-mail: jpassmore@tjcog.org
nmurphy@tjcog.org; akepler@tjcog.org
ckarhoff@tjcog.org, jlink@tjcog.org

Counties: Chatham, Durham, Johnston, Lee, Moore,
Orange, and Wake

K

Kimberly Hawkins
Region K Council of Governments
P.O. Box 709
Henderson, N.C. 27536
(252) 436-2050
Toll Free: 1-866-506-6223
FAX: (252) 436-2055
e-mail: khawkins@kerrtarcog.org

Counties: Franklin, Granville, Person, Vance and
Warren

L

Armata Coley and Angela Hunter
Upper Coastal Plains Council of Governments
P.O. Drawer 2748
Rocky Mount, N.C. 27802
(252) 446-0411
FAX: (252) 446-5651
e-mail: acoley@ucpcog.org
Angela.Hunter@ucpcog.org

Counties: Edgecombe, Halifax, Nash, Northampton
and Wilson

M

Andrea Wright-Valdez and Tracy Davis
Mid-Carolina Council of Governments
P.O. Box 1510
Fayetteville, N.C. 28302
(910) 323-4191
FAX: (910) 323-9330
e-mail: andrea@mccog.org
tdavis@mccog.org

Counties: Cumberland, Harnett and Sampson

N

Twilla C. Allen
Lumber River Council of Governments
4721 Fayetteville Rd.
Lumberton, N.C. 28358
(910) 618-5533 / FAX: (910) 618-5576
Toll Free: 1-866-582-4251
e-mail: tc@mail.lrcog.dst.nc.us

Counties: Bladen, Hoke, Robeson, Scotland
and Richmond

O

Harvin Quidas and Audrey Marshall
Cape Fear Council of Governments
1480 Harbour Dr.
Wilmington, N.C. 28401
(910) 395-4553 ext. 208 and (910) 395-4553 ext.
221 FAX: (910) 395-2684
Toll Free: 1-800-218-6575
e-mail: hquidas@capefearcog.org
amarshall@capefearcog.org

Counties: Brunswick, Columbus, New Hanover
and Pender

P

Sheila Lewis and Angelia Wallace

Eastern Carolina Council
Area Agency on Aging
P.O. Box 1717
New Bern, N.C. 28563
(252) 638-3185 ext. 3010 and ext. 3007
Toll Free: 1-800-824-4648 / FAX: (252)
638-3187
e-mail: slewis@eccog.org; awallace@eccog.org

Counties: Carteret, Craven, Duplin, Greene, Jones,
Lenoir, Onslow, Pamlico and Wayne

Q

Annette Eubanks

Mid East Commission
P.O. Box Drawer 1787
Washington, N.C. 27889
(252) 974-1838
FAX: (252) 948-1887
e-mail: aeubanks@mideastcom.org

Counties: Beaufort, Bertie, Hertford, Martin, and Pitt

R

Debra Sheard

Albemarle Commission
P.O. Box 646
Hertford, NC 27944
(252) 426-5753
FAX: (252) 426-8482
e-mail: dnsheard@simflex.com

Counties: Camden, Chowan, Currituck, Dare,
Gates, Hyde, Pasquotank, Perquimans, Tyrrell
and Washington

Appendix E

§ 131D-31. Adult care home community advisory committees.

- (a) Statement of Purpose. - It is the intention of the General Assembly that community advisory committees work to maintain the intent of the Adult Care Home Residents' Bill of Rights within the licensed adult care homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and cooperation with adult care homes to ensure quality care for the elderly and disabled adults.
- (b) Establishment and Appointment of Committees. -
 - (1) A community advisory committee shall be established in each county that has at least one licensed adult care home, shall serve all the homes in the county, and shall work with each of these homes for the best interests of the residents. In a county that has one, two, or three adult care homes with 10 or more beds, the committee shall have five members.
 - (2) In a county with four or more adult care homes with 10 or more beds, the committee shall have one additional member for each adult care home with 10 or more beds in excess of three, and may have up to five additional members at the discretion of the county commissioners, not to exceed a maximum of 25 members. In each county with four or more adult care homes with 10 or more beds, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each adult care home in the county. Each member must serve on at least one subcommittee.
 - (3) In counties with no adult care homes with 10 or more beds, the committee shall have five members. Regardless of how many members a particular community advisory committee is required to have, at least one member of each committee shall be a person involved in the area of mental retardation.
 - (4) The boards of county commissioners are encouraged to appoint the Adult Care Home Community Advisory Committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) shall be chosen from among persons nominated by a majority of the chief administrators of adult care homes in the county. If the adult care home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, these appointments may be made without nominations. If the county

commissioners fail to appoint members to a committee by July 1, 1983, the appointments shall be made by the Assistant Secretary for Aging, Department of Health and Human Services, no sooner than 45 days after nominations have been requested from the adult care home administrators, but no later than October 1, 1983. In making appointments, the Assistant Secretary for Aging shall follow the same appointment process as that specified for the County Commissioners.

- (c) Joint Nursing and Adult Care Home Community Advisory Committees. - Appointment to the Nursing Home Community Advisory Committees shall preclude appointment to the Adult Care Home Community Advisory Committees except where written approval to combine these committees is obtained from the Assistant Secretary for Aging, Department of Health and Human Services. Where this approval is obtained, the Joint Nursing and Adult Care Home Community Advisory Committee shall have the membership required of Nursing Home Community Advisory Committees and one additional member for each adult care home with 10 or more beds licensed in the county. In counties with no adult care homes with 10 or more beds, there shall be one additional member for every four other types of adult care homes in the county. In no case shall the number of members on the Joint Nursing and Adult Care Home Community Advisory Committee exceed 25. Each member shall exercise the statutory rights and responsibilities of both Nursing Home Committees and Adult Care Home Committees. In making appointments to this joint committee, the county commissioners shall solicit nominations from both nursing and adult care home administrators for the appointment of approximately (but no more than) one-third of the members.
- (d) Terms of Office. - Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two- or three-year term at the county commissioners' discretion to ensure staggered terms of office.
- (e) Vacancies. - Any vacancy shall be filled by appointment of a person for a one-year term. If this vacancy is in a position filled by an appointee nominated by the chief administrators of adult care homes within the county, then the county commissioners shall fill the vacancy from persons nominated by a majority of the chief administrators. If the adult care home administrators fail to make a nomination by registered mail within 45 days after written notification has been sent to them requesting a nomination, this appointment may be made without nominations. If the county commissioners fail to fill a vacancy, the vacancy may be filled by the Assistant Secretary for Aging, Department of Health and Human Services no sooner

than 45 days after the commissioners have been notified of the appointment or vacancy.

- (f) Officers. - The committee shall elect from its members a chair, to serve a one-year term.
- (g) Minimum Qualifications for Appointment. - Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, Department of Health and Human Services.
- (h) Training. - The Division of Aging, Department of Health and Human Services, shall develop training materials, which shall be distributed to each committee member. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under G.S. 131D-32. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.
- (i) Any written communication made by a member of adult care home advisory committee within the course and scope of the member's duties, as specified in G.S. 131D-32, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements and communications do not amount to intentional wrongdoing.

To the extent that any adult care home advisory committee or any member is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1981, c.923, s. 1; 1983, c. 88, s. 1; 1987, c. 682, s. 2; 1995, c. 535, s. 14; 1997-176, s. 2; 1997-443, s. 11A.118(a).)

§ 131E-128. Nursing home advisory committees.

- (a) It is the purpose of the General Assembly that community advisory committees work to maintain the intent of this Part within the nursing homes in this State, including nursing homes operated by hospitals licensed under Article 5 of G.S. Chapter 131E. It is the further purpose of the General Assembly that the committees promote community involvement and cooperation with nursing homes and an integration of these homes into a system of care for the elderly.
- (b)
 - (1) A community advisory committee shall be established in each county which has a nursing home, including a nursing home operated by a hospital licensed under Article 5 of G.S. Chapter 131E, shall serve all the homes in the county, and shall work with each home in the best interest of the persons residing in each home. In a county which has one, two, or three nursing homes, the committee shall have five members. In a county with four or more nursing homes, the committee shall have one additional member for each nursing home in excess of three, and may have up to five additional members per committee at the discretion of the county commissioners.
 - (2) In each county with four or more nursing homes, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each nursing home in the county. Each member must serve on at least one subcommittee.
 - (3) Each committee shall be appointed by the board of county commissioners. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of nursing homes in the county and of the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes. If the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to make a nomination within 45 days after written notification has been sent to them by the board of county commissioners requesting a nomination, these appointments may be made by the board of county commissioners without nominations.
- (c) Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a three-year term. Persons who were originally nominees of nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, or who were appointed by the board of county commissioners when the nursing home

administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make nominations, may not be reappointed without the consent of a majority of the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes within the county. If the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to approve or reject the reappointment within 45 days of being requested by the board of county commissioners, the commissioners may reappoint the member if they so choose.

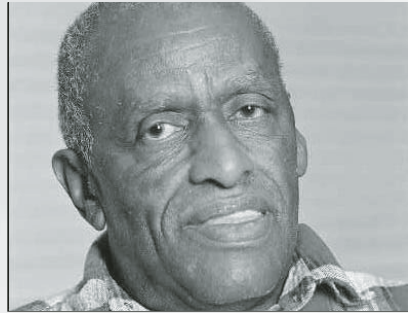
- (d) Any vacancy shall be filled by appointment of a person for a one-year term. Any person replacing a member nominated by the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes or a person appointed when the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make a nomination shall be selected from among persons nominated by the administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, as provided in subsection (b). If the county commissioners fail to appoint members to a committee, or fail to fill a vacancy, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have been notified of the appointment or vacancy if nomination or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is not required. If nominations or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is required, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have received the nomination or approval, or no sooner than 45 days after the 45-day period for action by the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes.
- (e) The committee shall elect from its members a chair, to serve a one-year term.
- (f) Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by a committee, or employee or governing board member or immediate family member of an employee or governing board member of

a home served by a committee, or immediate family member of a patient in a home served by a committee may be a member of a committee. Membership on a committee shall not be considered an office as defined in G.S. 128-1 or G.S. 128-1.1. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, which shall supply a copy to the Division of Facility Services.

- (g) The Division of Aging, Department of Health and Human Services, shall develop training materials which shall be distributed to each committee member and nursing home. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under subsection (h) of this section. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.
- (h)
 - (1) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level.
 - (2) Each committee shall quarterly visit the nursing home it serves. For each official quarterly visit, a majority of the committee members shall be present. In addition, each committee may visit the nursing home it serves whenever it deems it necessary to carry out its duties. In counties with four or more nursing homes, the subcommittee assigned to a home shall perform the duties of the committee under this subdivision, and a majority of the subcommittee members must be present for any visit.
 - (3) Each member of a committee shall have the right between 10:00 A.M. and 8:00 P.M. to enter into the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to homes served by those subcommittees to which the member has been appointed.
 - (4) The committee or subcommittee may communicate through its chair with the Department or any other agency in relation to the interest of any patient. The identity of any complainant or resident involved in a complaint shall not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.

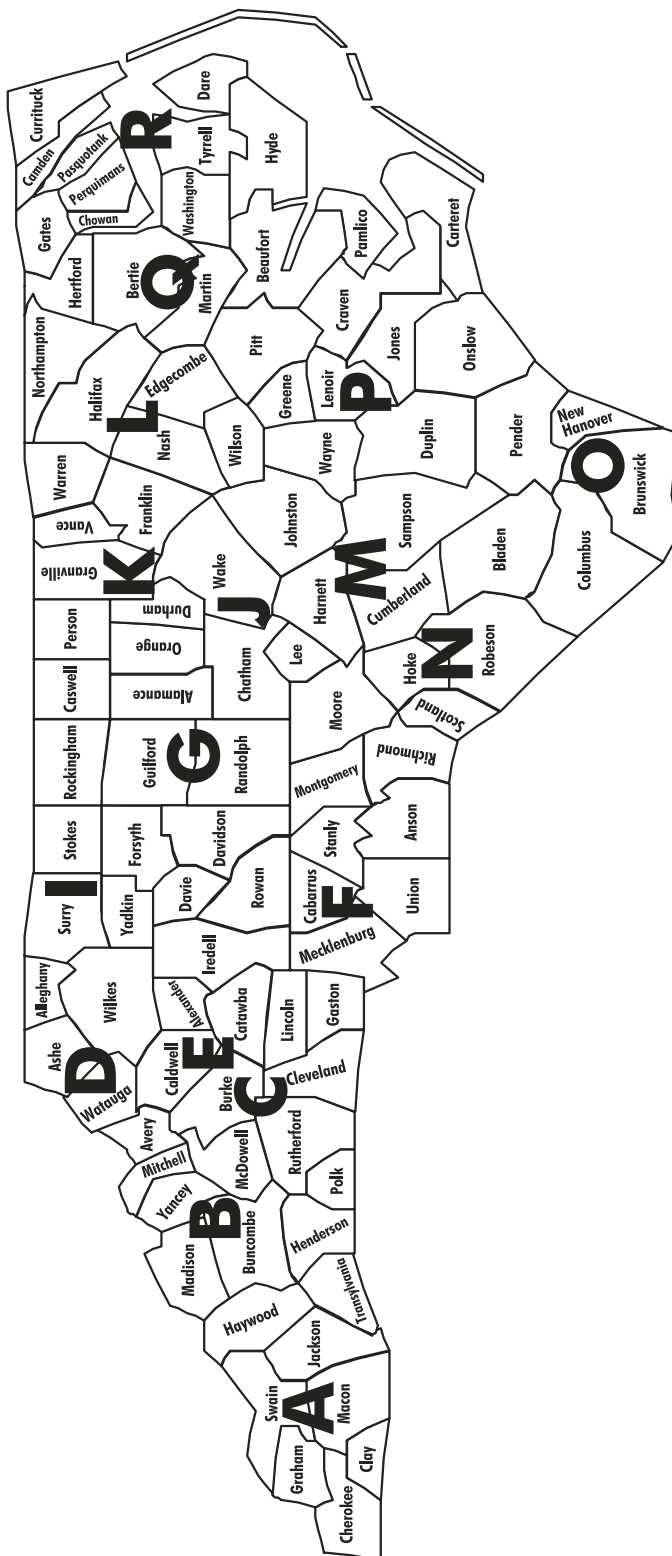
- (5) Each home shall cooperate with the committee as it carries out its duties.
- (6) Before entering into any nursing home, the committee, subcommittee, or member shall identify itself to the person present at the facility who is in charge of the facility at that time.
- (i) Any written communication made by a member of a nursing home advisory committee within the course and scope of the member's duties, as specified in G.S. 131E-128, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements or communications do not amount to intentional wrongdoing.

To the extent that any nursing home advisory committee or any member thereof is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1977, c.897, s. 2; 1977, 2nd Sess., c. 1192, s. 1; 1983, c. 143, ss. 4-9; c. 775, s. 1; 1987, c. 682, s. 1; 1995, c. 254, s. 7; 1997-176, s. 1; 1997-443, s. 11A.118(a).)



Appendix F

Area Agency on Aging





State of North Carolina
Michael F. Easley, Governor

N.C. Department of Health and Human Services
Dempsey Benton, Secretary
Dennis W. Streets, Director, Division of Aging and Adult Services
Sharon C. Wilder, State Long Term Care Ombudsman

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N.C. Division of Aging and Adult Services
2101 Mail Service Center
Raleigh, NC 27699-2101